

**206 *IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH***

**CRM-M-32600-2022
Date of decision : 06.09.2022**

SUKHDEV SINGH

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr. Siddharth Singh, Advocate for
 Mr. P.S. Ahluwalia, Advocate
 for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR no.174 dated 14.07.2022 registered under Section 304 of IPC, 1860 at Police Station Sector-9, Ambala City.

On 28.07.2022, this Court was pleased to pass the following order:-

“Inter alia contends that the petitioner has not been named in the FIR and even as per the FIR, it is co-accused persons namely Kunal and Gurdev Singh who were stated to be the landlord, who as per the FIR, had kept the complainant and her husband as tenant. It is further submitted that there is no rent deed to show any relationship of landlord and tenant between the parties and it is the own case of the complainant that her husband was a beggar and thus, it apparently seems that they were unauthorized trespassers on the property and there could be no vicarious liability against the present petitioner, more so, when there is no privity of contract, even as per the FIR, between the complainant and the present petitioner. It is contended that the petitioner has been roped in the present case only on account of being one of the sons of Amarjit Singh, who was the original owner, who died on 14.06.2021 and it has been submitted that even in the FIR, it has been stated that there

was heavy rainfall and in view of the abovesaid facts and circumstances, Section 304 of IPC would not apply to the present case. It is further contended that four sons of Amarjit Singh have been arrested and the present petitioner is suffering from various medical ailments including chronic active colitis and in support of the same, Medical Report has been annexed as Annexure P-3 with the paper book. It is argued that no recovery is to be effected from the present petitioner and the present petitioner is not involved in any other case.

Notice of motion for 06.09.2022.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

(VIKAS BAHL)
JUDGE

28.07.2022
Pawan ”

Learned counsel for the petitioner has submitted that in pursuance of the said order, the petitioner has joined the investigation.

Learned State counsel on instructions from SI Subodh Singh has submitted that petitioner has joined the investigation but has opposed the grant of anticipatory bail and has submitted that present petitioner is one of the co-owners of the property in question and therefore, he does not deserve the concession of anticipatory bail in the present case.

This Court has heard learned counsel for the parties and has perused the paper book. As has been noticed in the order dated 28.07.2022, petitioner has not been named in the FIR and he is not the landlord, whereas, co-accused namely Kunal and Gurdev Singh are stated to be the landlords. It is further submitted that there is no rent deed to show any relationship of landlord and tenant between the parties and it is the own case

of the complainant that her husband was a beggar and thus, it apparently seems that they were unauthorized trespassers on the property and there could be no vicarious liability against the present petitioner more so, when there is no privity of contract, even as per the FIR, between the complainant and the present petitioner and in the absence of the same, mainly because the petitioner is also one of the co-owners, would not disentitle the petitioner to grant of anticipatory bail, more so, when the petitioner is stated to be suffering from various ailments including chronic active colitis which has also been mentioned in the medical report, annexed as Annexure P-3 with the paper book. It is argued that no recovery was to be effected from the petitioner nor the petitioner is involved in any other case.

Keeping in view the above said facts and circumstances, more so, the facts which have been noticed in the order dated 28.07.2022, and also the fact that the petitioner has joined the investigation and is not required for further investigation, the present petition is allowed and the interim order dated 28.07.2022 is made absolute.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

September 06, 2022
Amandeep

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No