

**216 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.36618 of 2022 (O&M)

Date of decision : 19.12.2022

Ravinder Kumar

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Ashok Kumar Khunger, Advocate
for the petitioner.

Mr. Sarabjit Singh Cheema, DAG, Punjab.

Mr. K.D.S.Sidhu, Advocate
for the complainant.

PANKAJ JAIN, J. (ORAL)

The petitioner has prayed for grant of pre-arrest bail in F.I.R.
No.0084 dated 04.07.2022 registered under Sections 307, 324, 323, 427,
148, 149, 120-B IPC (offences under Sections 325/326 IPC added
subsequently) at Police Station Khuian Sarwar, District Fazilka.

On 22.08.2022 while issuing notice of motion the following
order was passed :-

*“This is a petition under Section 438 Cr.P.C. for grant of
anticipatory bail to the petitioner in FIR No.0084 dated 04.07.2022 under
Sections 307,324,323,427,148,149,120-B IPC (offences under Sections
325,326 IPC were added later on) registered at Police Station Khuian
Sarwar, District Fazilka.*

*Learned counsel for the petitioner inter alia contends that the
petitioner has not been named in the FIR. As per the prosecution, so far
as motive of the occurrence is concerned that relates to the petitioner.*

*Be that as it may, no overt act has been attributed to the
petitioner, rather he is even not named in the FIR.*

Notice of motion.

On the asking of the Court Mr. Mohinder Singh Joshi, Additional Advocate General, Punjab, who is present in Court accepts notice.

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

To come up on 24.11.2022.”

A bare perusal thereof would reveal that the petitioner was granted concession of interim bail on the ground that the name of the petitioner did not figure in the FIR.

Learned counsel for the petitioner clarifies that his contention was that the petitioner was though named in FIR but as per the contents was stated to be not present on the scene of occurrence.

Today injury Chart by way of affidavit of Sukhwinder Singh Brar, PPS, Deputy Superintendent of Police, Sub Division Abohar, District Fazilka on behalf of State has been filed wherein the petitioner has been attributed injury on the person of Sandeep Kumar S/o Jai Chand as well as on the person of Sandeep Kumar S/o Om Parkash. The injuries are stated to be grievous injuries apart from that as per the allegations levelled in the FIR the motive behind occurrence has also been attributed to the petitioner only.

At this stage, Mr. K.D.S.Sidhu, Advocate appearing on behalf of the complainant further submits that the injured witness namely Sandeep Kumar s/o Om Parkash has already moved an application before the police authorities alleging misuse of concession of interim bail by the petitioner.

As per settled law petitioner is required to make out a case for invoking jurisdiction under Section 438 Cr.P.C. In ***Gurbaksh Singh Sibbia vs. State of Punjab, 1980(2) SCC 565***, Apex Court has held that :-

“..That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the State" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail....”

Likewise while reiterating the law laid down in ***Gurbaksh Singh Sibbia's case (supra)*** Apex Court in ***Sushila Aggarwal and others Vs. State (NCT of Delhi) and another, 2020 (5) SCC 1*** held that:-

“(4) Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it.”

The nature and the seriousness of the allegations levelled against the petitioner and his conduct are the relevant factors for the adjudication of the present petition.

In view of the serious allegations levelled against the petitioner, this does not appear to be a fit case to grant discretionary relief of anticipatory bail to the petitioner. Consequently, the same is dismissed.

Needless to say nothing recorded hereinabove should be construed as expression on merits of the case.

(PANKAJ JAIN)
JUDGE

19.12.2022

Pooja sharma-I

Whether speaking/reasoned	Yes
Whether Reportable :	No