

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

**CRM-M No. 43796 of 2022
Date of decision : September 22, 2022**

Sahil Singh

..... Petitioners

Versus

State of Punjab

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present :- Ms. G. K. Mann, Senior Advocate with
Mr. Gursharan Singh, Advocate
for the petitioner.

Mr. Aman Dhir, DAG., Punjab

PANKAJ JAIN, J. (ORAL)

The present petition has been filed under Section 438 Cr.P.C.
Seeking pre-arrest bail in FIR No. 0082 dated 29.7.2021 for offences
punishable under Sections 379-B, 506, 148 and 149 IPC, 1860 and Section
25, 27, 54 and 59 of the Arms Act, 1959 registered at Police Station D-
Division, District Police Commissionerate Amritsar.

Learned Senior counsel representing the petitioner submits that
the petitioner was not named in the FIR and has been nominated on the
basis of disclosure statement suffered by the co-accused which will not be
admissible being hit by Section 25 of the Indian Evidence Act, 1872. She
further submits that the matter already stands compromised between the
parties and the compromise deed dated 14.9.2022 with respect to the same
has been placed on record as Annexure P-4. It has been thus, submitted that
most likely the complainant is not going to support the case of the

prosecution and the petitioner being a young boy of 22 years should not be made to face an ordeal.

On advance notice, Mr. Aman Dhir, DAG., Punjab submits that infact it is the petitioner who was the main culprit. The pistol and the activa used in the present offence is yet to be recovered.

I have heard learned counsel for the parties and have gone through the record of the case.

Not naming the petitioner in the FIR has no bearing in the case keeping in view the allegations levelled against the petitioner and the offence under Section 379-B. Obviously, the victim is never aware of the identity of the snatcher. Learned Senior counsel has not been able to give any reason as to why the co-accused will wrongly implicate and nominate 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's case (supra)**, 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.”

6. As per settled law (in **C.B.I vs. Anil Sharma, 1997(7) 187**) there is a qualitative difference between custodial interrogation and questioning a person insulated by pre-arrest bail. Investigation at this nascent stage cannot be belayed.

7. 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.

8. In view of the aforesaid circumstances, this does not appear to be a fit case to grant discretionary relief of anticipatory bail to the petitioner. Consequently, the same is dismissed.

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

Keeping in view the seriousness of the allegations levelled against the petitioner, no ground for grant of anticipatory bail is made out.

Consequently, the present petition stands dismissed.

(PANKAJ JAIN)
JUDGE

September 22, 2022
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Whether speaking/reasoned	Yes
Whether Reportable :	No