

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

105

CRM-M-48843-2021.

Date of Decision: 06.01.2022.

Suleman

....Petitioner.

Versus

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Kapil Khanna, Advocate for petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video Conferencing.

This petition under Section 438 Cr.P.C. for grant of pre-arrest bail has been moved by petitioner-**Suleman** in case FIR No.108 dated 14.10.2021 under Section 379 IPC (Sections 411 and 482 IPC added lateron), registered at Police Station Rahon, District S.B.S. Nagar.

Learned counsel for the petitioner *inter alia* contends that allegations levelled in the FIR are altogether concocted, false and frivolous and there is no iota of truth therein. He further submits that allegedly during intervening night of 13/14.10.2021 at about 1:00 AM (midnight) in the area of village Bazidpur, petitioner alongwith 8-9 unknown persons came in a vehicle make Mahindra Pick-Up and stole 16 sheep, 11 lambs and 3 goats away belonging to complainant-Gurmeet, whereas petitioner has no nexus

whatsoever with the alleged offence. He further urges that petitioner has been falsely implicated in the instant case FIR due to previous enmity with the complainant. He further urges that even otherwise story propounded by the complainant seems to be concocted one solely for the reason that at the time of alleged occurrence, the complainant did not make any effort to stop the culprits from committing alleged offence. He further urges that even otherwise vehicle used in the commission of alleged offence has already been recovered from co-accused Latif and, thus, nothing incriminating is to be recovered at the instance of petitioner. He further urges that co-accused Alam has already been extended concession of interim pre-arrest bail by this Court, vide order dated 10.12.2021 passed in CRM-M-51475-2021, whereas co-accused namely Latif and Hussain have already been extended concession of regular bail by Trial Court, vide order dated 25.10.2021. He further submits that though petitioner has no nexus whatsoever with the alleged offence, he is ready to join investigation as and when called upon to do so by the Investigating Agency, thus, concession of pre-arrest bail may be extended to him.

On the other hand, learned State counsel while opposing the cause of petitioner has vehemently argued that during intervening night of 13/14.10.2021 at about 1:00 AM (midnight) in the area of village Bazidpur, petitioner alongwith 8-9 unknown persons committed theft of 16 sheep, 11 lambs and 3 goats belonging to complainant-Gurmeet and took away those animals by loading them in vehicle make Mahindra Pick-Up. He further urges that petitioner was specifically named in the FIR being perpetrator of

arrested on 15.10.2021 while they were going to sell two stolen sheep in a car make Maruti bearing registration No.PB-32O-7308 and accordingly offence under Section 411 IPC was added in the array of offence. He further submits that during interrogation, co-accused namely Latif and Hussain have disclosed the name of present petitioner. He further urges that registration number plate (PB-32O-7308) affixed on the above said Maruti car was found to be fake one, whereas the original registration number of said car was UP-32CA-8113 and the said car is registered in the name of M/s International Tractors Ltd., 1205/34, Ring Road, Indira Nagar, Lucknow, and as such offence under Section 482 IPC was also added in the array of offence. He further urges that recovery of stolen sheep, lambs and goats is yet to be effected at the instance of present petitioner. He further urges that apart from instant case FIR, petitioner is also involved in case FIR No.96 dated 14.07.2020 under Sections 148, 323 and 325 IPC read with Section 149 IPC, Police Station Rahon, District S.B.S. Nagar. He further urges that in view of nature of offence committed by the petitioner, his custodial interrogation is required to unveil the truth and as such he is not entitled to the concession of pre-arrest bail.

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

Without commenting anything on the merits of the case, lest it may prejudice the case of either of the parties, allegedly during intervening night of 13/14.10.2021 at about 1:00 AM (midnight) in the area of village Bazidpur, petitioner alongwith 8-9 unknown persons committed theft of 16

out by learned State counsel, apart from instant case FIR, petitioner is also involved in case FIR No.96 dated 14.07.2020 under Sections 148, 323 and 325 IPC read with Section 149 IPC, Police Station Rahon, District S.B.S. Nagar.

Pre-arrest bail is not to be granted as a matter of routine/course in all cases. The grant or refusal of such bail depends on the variety of circumstances, the cumulative effect of which, should enter the judicial verdict. The power under Section 438 Cr.P.C. is to be exercised sparingly and in exceptional cases keeping into focus the facts and circumstances of each case. At the same time, it is now well-settled proposition of law that the order of anticipatory bail cannot be allowed to circumvent normal procedure of arrest and investigation by the Police. The Court has also to see that the investigation is in the province of the Police and an order of anticipatory bail should not operate as an in-road into the statutory investigational powers of the Police, in exercising the judicial discretion in granting the anticipatory bail. The Court should not be unmindful of the difficulties likely to be faced by the Investigating Agency and the public interest likely to be affected thereby in this relevant connection. In a given situation, custodial interrogation of petitioner is certainly required for complete and effective investigation. In case, same is denied to the Investigating Agency that shall leave many glaring loopholes and gaps, adversely affecting investigation, which is uncalled for. Keeping in view totality of entire scenario and nature of offence, no extra-ordinary ground has been made out in favour of petitioner for his entitlement to pre-arrest

As a sequel to above, instant petition for grant of pre-arrest bail moved by the petitioner, is dismissed.

(LALIT BATRA)
JUDGE

06.01.2022
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Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No