

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

CRM-M-54911-2022
Date of decision: 24.11.2022

Pritam Singh @ Tinku

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Lalit Goyal, Advocate, for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

Ms. Jasleen Kaur, Advocate, for the complainant.

RAJESH BHARDWAJ, J.

The petitioner has approached this Court praying for grant of anticipatory bail in a case FIR No.159, dated 4.11.2022, registered under Sections 354, 354-B and 323 IPC at Police Station Gidderbaha, District Sri Muktsar Sahib.

Succinctly, the facts of the case are that the present FIR has been lodged on the statement of the prosecutrix, wherein, it was alleged that she was employed in Patwarkhana in the Courts for doing cleaning works. On 02.11.2022 at 4:30 p.m., she was at Sabji Mandi Lambi Road and while she was purchasing vegetables, someone rammed motorcycle in her. She identified the person as Pritam Kumar @ Pinku i.e. the petitioner. On her raising objection, Pritam Kumar @ Pinku torn her shirt and molested her. He gave her kick blows and dragged her by pulling her hair. When her husband Sham Lal arrived, he was also beaten up by him. Both of them suffered injuries and admitted in Civil Hospital, Gidderbaha. Request was made to take legal action against the accused. On the registration of the FIR, the investigation

commenced. Apprehending arrest, the petitioner approached the Court of learned Additional Sessions Judge, Sri Muktsar Sahib for grant of anticipatory bail, who after hearing both the sides declined the same vide order dated 14.11.2022. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of anticipatory bail.

Learned counsel for the petitioner has contended that the petitioner has been falsely and frivolously implicated in this case. He has submitted that the present FIR has been lodged against the petitioner with an ulterior motive. He has submitted that grandmother of the petitioner has filed a complaint dated 14.4.2021 against the family of the complainant and now as an act of vendetta, the present FIR has been filed against the petitioner to settle the score. He submits that there is an unexplained delay in lodging the FIR. He submits that the oral allegations of the prosecutrix are not medically corroborated. He submits that the petitioner has no criminal antecedents and thus, deserves to be granted anticipatory bail.

Heard.

Evidently, the occurrence has taken place in broad day light. Both the prosecutrix and her husband have suffered injuries. The petitioner is about 20 years of age, whereas, the prosecutrix is about 50 years of age, who was with her husband. The contentions raised by learned counsel for the petitioner regarding false implication with an ulterior motive cannot be appreciated at this stage of investigation. The alleged occurrence has taken place in public view. The case deserves to be thoroughly investigated.

Hon'ble the Supreme Court in State represented by CBI Vs. Anil Sharma, (1997) 7 SCC 187 has held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented

than questioning a suspect who is well ensconded with a favorable order under Section 438 if the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disintering many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulted by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disintering offences would not conduct themselves as offenders.”

The Hon'ble Supreme Court, in Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632 has held as under:-

“31. In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. 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. The relevance of these considerations was pointed out in *State v. Captain Jagjit Singh* (1962) 3 SCR 622, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.

In the abovesaid case, the Hon'ble Supreme Court has held that the Court is to draw a balance between the right of liberty of the individual and overall interest of the society. However, overall interest of the society would prevail upon the right of liberty of the individual. The Hon'ble Apex Court in plethora of judicial precedents has time and again reiterated that while considering the anticipatory bail the Court is to take into consideration the factors like gravity of offence, chances of accused tampering with the evidence and probabilities of his fleeing from justice etc. The Court should be circumspect about the impact of its decision on the society as well. The anticipatory bail is an extraordinary discretion which can be exercised in the extraordinary circumstances. Weighing the facts and circumstances of the case in hand on the anvil of law settled, this Court is of the opinion that the petitioner do not qualify for exercising the extraordinary power by this Court

in his favour. Resultantly, the petition being devoid of any merit is hereby dismissed.

24.11.2022
sharmila

(RAJESH BHARDWAJ)
JUDGE

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No