

CRM-M-59689-2022

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

Sr. No.103

CRM-M-59689-2022

Date of decision : 23.12.2022

Peter

.....Petitioner(s)

Versus

State of Punjab

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.Abhishek Khullar, Advocate for the petitioner(s)

Mr.Manipal Singh Atwal, DAG, Punjab

AMAN CHAUDHARY, J.

Prayer in the present petition filed under Section 438 of the Code of Criminal Procedure is for grant of anticipatory bail to the petitioner in case FIR No.97 dated 03.07.2022, registered under Sections 323, 379B, 506, 34 IPC at Police Station GRP, District Ludhiana.

Learned counsel submits that the petitioner has been falsely implicated in the present case being the son of the accused, whose names had been mentioned in the FIR. He further submits that the main accused Sukhdev @ Kalia and Munni Devi have already been enlarged on bail by learned Additional Sessions Judge, Ludhiana. The challan has been presented and now the case is fixed for framing of charges. Nothing is to be recovered from the petitioner. The petitioner is ready and willing to join the investigation and will cooperate with the investigating agency.

On the other hand, learned State counsel appearing on advance notice opposes the bail petition of the petitioner on the ground that the investigation is at the initiate stage. As per the FIR, the accused had given

beatings and caused injuries to the complainant and his family members. Custodial interrogation of the petitioner is necessary in the present case to find out the names of the other accused and also to effect the recovery of the weapons used.

Heard.

Briefly put the facts are that on 30.06.2022, after meeting her husband Manoj Sahni, complainant Sunita Devi was returning from Ludhiana to Mulanpur on train. She alighted from the train at Mullanpur Railway Station and was crossing the goods train. Her daughter and nephew Aman were coming with torch, there being darkness. At about 10.00 pm, Sukhdev @ Kalia armed with wooden stick/daang was standing near goods train, with an intention to commit theft. He got suspicious upon complainant and her family that they were intervening with a torch in committing theft by him and he became angry and started abusing. Sukhdev made a telephone call to his son Peter and informed regarding the fight with the complainant. On the calling of Sukhdev, his wife Munni, son Peter and one Vicky came on motor cycle bearing registration No. 2384. There were armed with Daang and base ball bat and started abusing. Sukhdev Singh @ Kalia gave Daang blow towards head of complainant and when she raised her arm, same hit on her left arm. Munni caught hold her from hair. Vicky gave Daang blow which hit on her right hand finger and he gave another blow which hit on her right arm. Peter gave base ball bat blow which hit on her left hip. Complainant raise hue and cry. Then, Sukhdev gave Daang blow on head of her nephew Aman and blood started oozing from his head. Sukhdev snatched purse of complainant, one mobile phone make Samsung, cash amount of Rs.300/- and railway ticket.

Hon'ble The Supreme Court in “**Jai Parkash Singh vs. State of Bihar**” reported as (2012) 4 SCC 379 has held as under:

“6. We have considered the rival submissions made by the learned counsel appearing for the parties and perused the record. 7. The provisions of Section 438 Cr.P.C. lay down guidelines for considering the anticipatory bail application, which read as under:

“438. Direction for grant of bail to person apprehending arrest.-(1) Where any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest, he shall be released on bail; and that court may, after taking into consideration, inter alia, the following factors, namely:- (i) The nature and gravity of the accusation; (ii) The antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a court in respect of any cognizable offence; (iii) the possibility of the applicant to flee from justice; and (iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested, either reject the application forthwith or issue an interim order for the grant of anticipatory bail.” 8. In view of the above, it is mandatory on the part of the court to ensure the compliance of the pre-requisite conditions for grant of anticipatory bail including the nature and gravity of the accusation. xxx xxx xxx

13. There is no substantial difference between Sections 438 and 439 Cr.P.C. so far as appreciation of the case as to whether or not a bail is to be granted, is concerned. However, neither anticipatory bail nor regular bail can be granted as a matter of rule. The anticipatory bail being an

extraordinary privilege should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after proper application of mind to decide whether it is a fit case for grant of anticipatory bail. xxx xxx xxx

21. In the facts and circumstances of this case, we are of the considered opinion that it was not a fit case for grant of anticipatory bail. The High Court ought to have exercised its extraordinary jurisdiction following the parameters laid down by this Court in above referred to judicial pronouncements, considering the nature and gravity of the offence and as the FIR had been lodged spontaneously, its veracity is reliable. The High Court has very lightly brushed aside the fact that FIR had been lodged spontaneously and further did not record any reason as how the pre-requisite conditions incorporated in the statutory provision itself stood fulfilled. Nor did the court consider as to whether custodial interrogation was required.”

The manner in which the crime is committed, gravity of the offence, age, impact on public confidence in the justice delivery system, etc. are the factors relevant to be considered at the time of grant of anticipatory bail.

In the present case, the name and the role of the petitioner has been specifically mentioned in the FIR. He gave baseball bat blow on the hip of the complainant. He alongwith his co-accused snatched a ladies purse containing mobile phone and some amount from her. The said articles are stated to be recovered and the recovery of baseball bate etc. to be effected from the petitioner, for which, the custodial interrogation of the petitioner is necessary. The argument seeking parity by the petitioner with co-accused

Sukhdev @ Kalia and Munni Devi is misconceived inasmuch as that they were enlarged on regular bail.

In the light of the judgment referred to above; the gravity and the manner, in which the offence has been committed, and the fact that the snatched articles and weapons of offence are to be recovered and names of other co-accused are yet to be ascertained, for which the custodial interrogation of the petitioner is required, this Court is not inclined to grant the concession of anticipatory bail to the petitioner. Accordingly, the present petition stands dismissed.

23.12.2022
gsv

(AMAN CHAUDHARY)
JUDGE

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