

CRM-M-2378 of 2023

2023:PHHC:044185

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

CRM-M-2378 of 2023

Date of decision: 23.03.2023

Gurwinder Singh @ Gaggu

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. G.S. Sidhu, Advocate, and
Mr. Mohit Kumar, Advocate, for the petitioner.
Mr. Jashanpreet Singh, DAG, Punjab.

NAMIT KUMAR, J.

In compliance of order dated 01.03.2023, learned State counsel has filed fresh status report by way of affidavit of Bharpur Singh, Deputy Superintendent of Police, Sub Division, Sunam, District Sangrur, which is taken on record. A copy thereof has been supplied to learned counsel for the petitioner.

This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.111 dated 03.09.2022 under Sections 387, 511, 506 & 34 IPC, registered at Police Station Longowal, District Sangrur.

FIR in the present case was lodged at the instance of complainant Sanjiv Kumar against two unknown persons on the averments that he along-with his father Ashok Kumar is running a grocery shop at Randhawa Patti Longowal. On 30.08.2022, at about 5.03 P.M, a message and a video has been received from mobile no.

CRM-M-2378 of 2023

2023:PHHC:044185

+639095951195 on his mobile no.98728-25725 that “he is Sukha Dunekewala District Moga, either to search on you-tube or to inquire from police, if tried to be clever, they will fire 20 shots and will post the same, and to take the matter seriously and to again message within two days that what they wanted and also raised threats and they also asked to reply.” The complainant tried to inquire about the matter at his level, but to no effect. On 02.09.2022, the complainant is receiving whatsapp messages and videos from the mobile number, above mentioned.

On issuance of notice of motion, status report dated 14.02.2023 by way of affidavit of Bharpur Singh, Deputy Superintendent of Police, Sub Division, Sunam, District Sangrur, was filed on behalf of respondent-State, wherein in para 5 and 6 role and antecedents of the petitioner have been described as under: -

**“5. ROLE OF THE PETITIONER GURWINDER SINGH
@ GAGGU**

That the present FIR No.111 dated 03.09.2022 under Sections 387, 511, 506, 34 IPC, Police Station Longowal, District Sangrur was registered against unknown person(s) on the basis of statement of Sanjiv Kumar that on 30.08.2022, he received one whatsapp message and video from mobile No. +639095951195 that, "Yes brother, kindly listen me carefully. My name is Sukha Dunekewala, District Moga, search on You Tube or asked from the Police, if you becomes clever, we will shoot you 20 bullets and will upload a post. Be reply, to get serious. will send you message again after two days. Then tell you what I need. If you want to go to Police before that, you can go. I know well about you and your family, you will lost your

life. Send your reply otherwise persons will come at shop and shoot you 20 bullets. Good luck." Thereafter, he inquired about this but could not know anything about it that who are the persons and as to why they have sent whatsapp message. On the basis of fact came on file and as per record pertaining to FIR No. 384 dated 02.09.2022 u/s 386, 506, 411, 120-B IPC, 25, 54, 59 Arms Act P.S. City-1 Barnala, Gurwinder Singh @ Gill, Balwinder Singh @ Binder and Baljinder Singh @ Kinda were nominated as accused in this case on 13.10.2022. On the basis of video footage stated to be sent by accused to the complainant is present, Baljeet Singh @ Pawa was nominated as accused on 17.12.2022 and he was arrested on the same day i.e. 17.12.2022 and one motorcycle bearing No. PB 13AD 8817 used in the crime was recovered from his possession. During interrogation accused Baljeet Singh @ Pawa disclosed that, "One day, our neighbor Gurwinder Singh @, Gaggu told me that I am well acquainted with Jagsir Singh @ Giani Sanghera resident of Mulowal, now settled in Manila. You should make a video of owner of 'Ram Murti-Ashok Kumar grocery store' and send it to Jagsir Singh @ Giani Sanghera. I am also acquainted with Jagsir Singh @ Giani Sanghera. We will get lot of money by giving threats to Sanjiv Kumar (complainant). The video, which I have prepared and sent to Jagsir Singh @ Giani, that was sent by me on the asking of Gurwinder Singh @ Gaggu. I have made a mistake by making a video of Ram Murti grocery store and sending it to Jagsir Singh @ Giani Sanghera". On the basis of disclosure made by Baljeet Singh, Gurwinder Singh @ Gaggu (present petitioner) was nominated as accused. During investigation it was duly substantiated that Gurwinder Singh @ Gaggu is the person, who allured his co-accused Balieet Singh @ Pawa

to make the video of complainant's shop and send it to Jagsir Singh @ Giani, so accused/petitioner Gurwinder Singh played a specific role in the commission of present offence.

6. ANTECEDENTS OF PETITIONER GURWINDER SINGH @ GAGGU

Perusal of record revealed that other than the present FIR, three more FIRs are found to have been registered against the present petitioner. Detail of these cases and status thereof is submitted as under:-

Sr. No.	FIR No., date, offence, name of P.S.	Status of the case
1.	FIR No.104 dated 12.09.2021 u/s 61.1.14 Excise Act P.S. Longowal	Under Trial
2.	FIR No.118 dated 22.09.2022 u/s 384, 506, 149 IPC P.S. Longowal	Under Investigation
3.	FIR No.110 dated 24.10.2018 u/s 61.1.14 Excise Act P.S. Longowal	Under Trial

In fresh status report dated 23.03.2023 it has been stated as under: -

“8. That pursuance of the query put by this Hon'ble Court with regard to FIR No, 118 dated 22.09.2022 u/s 384,506,149 IPC P.S. Longowal, it is submitted that, the above said FIR was registered against Deepak Singh @ Lekhi son of Jagjit Singh, Gurwinder Singh @ Gaggu (petitioner) son of Raniha Singh, Baljeet Singh @ Pahwa son of Nazam Singh residents of Randhawa Patti, Longowal, Suman Kaur s/o Vicky and Harman Kaur @, X Deol r/o benra on the basis of statement of Karan Kumar Goyal s/o Joginder Singh r/o Longowal to the effect that, he is resident of Sunami Patti Longowal and he is studying in B. Tech. His father Joginder Pal son of Dev Raj is running a paint shop at Ram Leela Ground Longowal.

About one and a half month ago, he came in contact with some unknown girl on his mobile through Instagram. She used to chat with him through her mobile No. 80545-30071 on his mobile 79735-48341. He further stated that on 01.08.2022 he had gone to Chandigarh for his studies where the said unknown lady called him at a flat at Sector 88, Chandigarh. He went to the said flat and she prepared his objectionable video on her mobile. Within that time, four other persons namely Deepak Singh alias Lekhi son of Jagjit Singh, Gurwinder Singh alias Gaggi son of Raja Singh, Baljit Singh alias Pahwa son of Nazam Singh, residents of Radhawa patti Longowal, Harman @ Ex-Deol r/o Benra who were earlier known to him came there and threatened him and demanded Rs.20 lakh from him. Thereafter, he came to know that said unknown lady is also resident of Longowal namely Suman Kaur wife of Vicky son of Krishan Singh resident of Randhawa Patti Longowal. He had told them that he is not having any money with him and he will arrange the money after going to his village. After reaching village Longowal, he disclosed the entire matter to his father Joginder Pal and the entire family was under fear. Thereafter Deepak Singh alias Lekhi son of Jagjit Singh, Gurwinder Singh alias Gaggi son of Raja Singh, Baljit Singh @ Pahwa son of Nazam Singh r/o Longowal in connivance with their accomplices Harman and Suman called him at Grain market Longowal and took a sum of '1,50,000/- from him under threat." On the basis of said statement of Karan Kumar, present FIR was registered against above said five persons.

During investigation rough site plan of the place of occurrence was prepared and statements of witnesses u/s 161 Cr.P.C. were recorded. Accused Deepak Singh alias Lekhi, Gurwinder Singh alias Gaggi and Suman Kaur

wife of Vicky were arrested on 23.09.2022. During interrogation, accused Deepak Kumar @ Lekhi disclosed that I, Gurvinder Singh @ Gaggu, Balit Singh @ Pahwa, Suman Kaur residents of Longowal and Harman @ X Deol hatched a conspiracy that Karan Kumar Goyal is a rich person, from whom, good earnings can be made by taking objectionable photos of him through mobile by trapping him in the love trap of sex. Under this conspiracy, we all went to sector 88, Mohali on 01.08.2022 by riding in Gurwinder Singh @ Gaggu's car bearing No. PB-13BP-1049 Where, Sakkattar Singh resident of Shahpur had rented a flat and he knew Baljit Singh @ Pahwa very well. Where Karan Kumar Goyal also reached. Karan Kumar Goyal was honey trapped by Suman Kaur and had sexual intercourse with her and Suman Kaur made an objectionable video of the same. We all the four also reached there in the said flat. We demanded Rs. 20 lakh from Karan Kumar Goyal and threatened him that if, he will not give the money, then they will make his video viral, who promised that after arranging money, he will give the demanded money at Longowal. Then we all came back to Longowal. 4-5 days after committing this crime I, Gurwinder Singh @ Gaggu, Baljit Singh @ Pahwa, Suman Kaur residents of Longowal and Harman @ X Deol had gathered at grain market, Longowal. Where Karan Kumar Goyal (complainant) gave us one and half lakh rupees (1,50,000/-) in cash and he promised to pay the rest of the money in installments. Out of Rs.1,50,000/-, Baljit Singh @ Pahwa had kept Rs. 50,000/- and out of the remaining amount, Rs. 25,000/- came to the share of Gurwinder Singh @ Gaggu, Rs. 25,000/- to the share of Suman Kaur, Rs.25,000/- to the share of Harman @ X Deol and Rs. 25,000/- came to the share of accused Deepak Kumar @ Lekhi.

Accused Suman Kaur produced one mobile marka NARZO, having SIM No. 98728-56293 used in the crime before the I.O. and same was taken into possession.

Pursuance of their respective disclosure statements, Rs. 14,500/- were recovered from accused Deepak Kumar @ Lekhi, Rs. 13000/- from accused Gurwinder Singh @ Gaggu and Rs. 11,500/-, were recovered from accused Suman Kaur, which they in connivance with each other, under a well planned criminal conspiracy, had taken by blackmailing the complainant. Accused Harmanpreet Singh @ X. Deol, joined the investigation on 07.10.2022 in the light of order No. 509 dated 04.10.2022 passed by the Court of Ld. Addl. Sessions Judge, Sangrur. Accused Harmanpreet Singh @ Ex. Deol did not recover Rs 25,000/- came into his share out of the amount taken by them by blackmailing the complainant. In this regard, offence us 201 IPC was already added. Accused Baljit Singh @ Pahwa joined the investigation in the light of order dated 17.11.2022 passed by this Hon'ble Court in CRM-M 51206 of 2022 and he produced car No. PB 13BP 1049 make swift VDI used in the crime, before the Investigating Officer and same was taken into possession. Accused Baljit Singh did not recover Rs. 50,000/- came into his share out of total amount, which they had taken from complainant by blackmailing him. In this regard, offence 201 IPC was already added. During investigation, car No. PB 13-BP-1049 make swift used in the crime is found in the name of accused/petitioner Gurwinder Singh @ Gaggu. On the completion of investigation, challan against accused, Deepak Singh alias Lekhi, Gurwinder Singh alias Gaggu, Suman Kaur wife of Vicky, Harmanpreet Singh @ X. Deol and Baljit Singh @ Pahwa was prepared, which is under the scrutiny of prosecution agency. After completing the legal formalities, the same

will be presented in the Court. So, a specific role is found to be attributed to accused Gurwinder Singh @ Gaggu (present petitioner) in the commission of offence in this case also.”

Learned counsel for the petitioner contends that the petitioner is innocent and has been falsely implicated in the present case. He further submits that initially the petitioner was not named in the FIR and has been nominated on the basis of disclosure statement of co-accused Baljit Singh @ Pahwa, which has no evidentiary value and the petitioner is ready and willing to join the investigation.

Per contra, learned State counsel has opposed the prayer for grant of anticipatory bail to the petitioner by submitting that investigation is at the initial stage and custodial interrogation of the petitioner is required to unearth the whole gamut of threatening innocent people and grant of anticipatory bail at this stage will hamper the investigation. He further submits that in FIR No.118 dated 22.09.2022 under Section 384, 506, 149 IPC, registered at Police Station Longowal, similar set of allegations has been levelled against the petitioner and his co-accused Baljit Singh and since the petitioner is habitual offender, therefore, he is not entitled for grant of anticipatory bail.

I have heard learned counsel for the parties and perused the record.

Earlier, the petitioner had filed anticipatory bail application before the Court of learned Additional Sessions Judge,

CRM-M-2378 of 2023

2023:PHHC:044185

Sangrur, which was dismissed vide order dated 11.01.2023 by observing as under: -

“8. After hearing arguments, it is observed that the police machinery was set into motion at the behest of complainant Sanjiv Kumar regarding raising of threats. The record reveals that in the shop of complainant Sanjiv Kumar, CCTV cameras have been installed from where co-accused Baljit Singh @ Pahwa was seen shooting the video clip, which has been prepared at the instance of applicant, who has forwarded the same to Jagsir Singh @ Giani Sanghera and he has send the same to complainant Sanjiv Kumar. As such, serious allegations have been raised by the complainant. The matter is required to be thoroughly probed, so, as to brought the investigations to some logical end. The investigations will be hampered, in case, the applicant is granted anticipatory bail at this juncture.”

As per law laid down by the Hon'ble Supreme Court in ***State of Madhya Pradesh v. Pradeep Sharma (2014) 2 Supreme Court Cases 171***, power exercisable under Section 438 Cr.P.C. is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his/her liberty.

Reliance can be placed upon the Hon'ble Supreme Court dictum passed in ***Prem Shankar Prasad v. The State of Bihar and another, 2021(4) RCR (Crl.) 598*** and ***Anil Kumar Singh v. High Court of Judicature at Patna through its Registrar General and another, (2020)19 Supreme Court Cases 364*** whereby the Hon'ble

CRM-M-2378 of 2023

2023:PHHC:044185

Apex Court had denied the concession of anticipatory bail in view of the gravity of offences and the conduct of the petitioner.

Keeping in view the facts and circumstances of the case, gravity of offence and the fact that petitioner is a habitual offender as he is involved in three other cases, he does not deserve the concession of anticipatory bail, as his custodial interrogation is necessitated in the present case.

The present petition is accordingly dismissed.

However, anything observed hereinabove shall not be construed as an expression of opinion on the merits of the case.

23.03.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No