

CRM-M-2762 of 2023 (O&M)

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

CRM-M-2762 of 2023 (O&M)
Reserved on: 14.02.2023
Pronounced on: 22.02.2023

Manoj Kumar

.....Petitioner

vs.

State of Haryana and another

.....Respondents

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Manoj Kumar

.....Petitioner

vs.

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by:

Mr. Vikram Singh, Advocate,
for the petitioner(s).

Ms. Gaganpreet Kaur, AAG, Haryana.

Mr. Sandeep Siwach, Advocate,
for respondent No.2 in CRM-M-2764 of 2023.

Mr. Digvijay Lamba, Advocate,
for the complainant in CRM-M-2762 of 2023.

Mr. Suneel Ranga, Advocate,
for the applicant in CRM-5259 of 2023.

NAMIT KUMAR, J.

This order shall dispose of above-referred two petitions filed by
petitioner-Manoj Kumar under Section 438 Cr.P.C. seeking anticipatory

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bail. In CRM-M-2762 of 2023 anticipatory bail has been sought in case FIR No.962 dated 24.12.2021 under Sections 379-B, 387, 120-B IPC and Section 25 of the Arms Act, 1954, registered at Police Station Quilla Panipat, District Panipat and in CRM-M-2764 of 2023 prayer has been made for anticipatory bail in case FIR No.85 dated 23.03.2022 under Sections 379-B, 387, 120-B IPC and Section 25 of the Arms Act, 1954, registered at Police Station Sector 13/17, Panipat, District Panipat.

As both the FIRs have been registered under same Sections, therefore, for the sake of brevity, facts are being taken from CRM-M-2762 of 2023.

The case of the prosecution is that on 24.12.2021, a written complaint was submitted by complainant Shahnawaj, resident of Village Laliyana, District Meerut, U.P. alleging therein that he was a transporter of buses and was running office at Sanjay Chowk, Panipat under the name and style of Sahil Travels. He alleged that on 20.12.2021, a bus owned by him had gone to Noorwala where some disgruntled elements had shown pistols to the staff members, who were in that bus and pressurized them to call the complainant. His staff members made the complainant to talk to them who told the complainant to meet petitioner-Manoj Baba at his Dera and pressurized him to meet him. The complainant alleged that those persons were indulged in the business of taking ransom money from the staff members of his bus by showing pistols and in case of resistance, had been assaulting the members of staff of his bus. He also alleged that co-accused Deepak alias Deepu, Mehboob and the petitioner along with other unknown persons used to extract money from his staff members and

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himself and otherwise used to extend threat to kill them. He stated that accused persons had been mentally pressurizing him and had been extending threats to kill his staff members and to damage his bus. He was apprehending danger of his life and property at their hands and prayed for taking penal action against the culprits. On this complaint, a case under Sections 379-B, 387 and 120-B of IPC and 25 of the Arms Act was registered. Investigating proceedings were initiated and during investigation, co-accused Deepak was arrested on 25.12.2021. He was interrogated and suffered disclosure statement to the effect that he along with other persons was member of gang of the petitioner, who was *gunda* and had been working as per directions given by the petitioner. He disclosed that accused Mehboob, Salim and Imran had met the petitioner and had told him that they were suffering loss in their transport business due to running buses by Sahil Travelers in Panipat and they requested the petitioner to stop running of buses of Sahil Travelers. He further disclosed in his disclosure statement that all of them had hatched a conspiracy to start harassing, threatening and extracting the money from the travelers and conductors of Sahil Travelers so that the complainant would stop plying his buses in Panipat. He further disclosed that in pursuance of their criminal conspiracy, he along with co-accused had started extracting money in the name of the petitioner from the conductors of buses of Sahil Travelers and also disclosed that they had extracted/snatched money from the conductors of buses of Sahil Travelers thereafter on several occasions. In pursuance of disclosure statement, he got recovered certain amount of money and also identified the place of occurrence. Co-accused Bijender,

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Pawan @ Khundia and Suraj Bhan were arrested on 15.01.2022. After completion of the necessary investigation and usual formalities, final report under Section 173 of Cr.P.C. was presented in court against co-accused Deepak @ Deepu, Pawan @ Khundia, Surajbhan @ Bhanu and Bijender. Thereafter, during further investigation, accused Rused @ Imran was arrested on 15.05.2022, who suffered disclosure statement and after completion of the necessary investigation and usual formalities, supplementary challan against him was presented in court. Accused Mehboob and Salim were found to be innocent. However, petitioner and co-accused Deepak are yet to be arrested and investigation against them is still going on.

On issuance of notice of motion, learned State counsel has filed reply by way of affidavit of Amit Dahiya, Addl. S.P., SCB, Madhuban (Karnal), which is taken on record. In the said reply, it has been stated as under: -

“6 That during the course of investigation the call detail record of Mobile No. 8708172588 from 07.12.2021 to 24.01.2022 (total pages 37), mobile No. 9788383835 dated 07.12.2021 to 22.01.2022 (total pages 13) Mobile No. 8607210072 from 07.12.2021 to 21.01.2022 (total pages 3) were taken into police possession and the call detail record was examined and during investigation person namely Heera lal stated that mobile No. 8708172588 has been provided by him to the present petitioner/accused (Manoj Baba and from this time period (07-12-2021 to 24-01-2022) the said mobile is continuously used by the present petitioner/accused to execute this crime in a planned manner. It is further submitted that Salim has got registered another FIR No. 85 dated 23.03.2022 u/s 379B,387,120B IPC, 25-54-59 arms act P.S. Sector-13,17

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Panipat against the present petitioner/accused and his co-accused namely Deepu, Imran and others on the same modus operandi of the crime. This case is under investigation and present petitioner has filed CRM-M-2764 of 2023 for anticipatory bail. The same has been fixed on 03-02-23.

x x x

10. That, on 1.7.2022 the investigation was verified by Incharge CIA-II Panipat and an application against the present petitioner/accused was submitted before Illaqa magistrate Panipat for issuance of arrest warrant against the present petitioner.

It is further submitted that the CDR of suspected number was obtained and examined and from examination of CDR it has been revealed that from 7.12.2021 to 24.1.2022 (time of continuous crime), the present petitioner/accused has talked 65 times from his mobile No. 8708172588 to co-accused Deepak @ Deepu, whereas 56 times call were made to Pawan @ Khundia.

x x x

14. That during further investigation conducted by Addl. S.P. Kurukshetra, as per the call detail records of the Mobile No. 8708172588 used by the present petitioner/accused is displayed in following below mentioned chart in the year 2021-22.

<i>Phone No.</i>	<i>Incoming</i>	<i>Out Going</i>	<i>Total</i>
<i>9255111115 (Manoj Baba)</i>	<i>224</i>	<i>314</i>	<i>538</i>
<i>9354924452 (Manoj Baba Wife Suman)</i>	<i>534</i>	<i>938</i>	<i>1472</i>
<i>9215800808 (Manoj son ID Manaj Baba)</i>	<i>160</i>	<i>107</i>	<i>267</i>

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978883835 (Deepak accused)	119	108	227
8607210072 (Pawan Kahundiya accused)	251	234	485
8448915191 (Imran accused)	43	37	80

However, from the perusal of the above it has been revealed that the present petitioner/accused has frequently talked with his suspected No.8708172588 to his co-accused to commit the crime.

x x x

23. That during the investigation of this case, the modus operandi of the crime revealed through material evidence, statement of the witnesses and other scientific evidences collected so far has been explained as under:-

“The co-accused Deepak @ Deepu along with other co-accused on 20.12.2021 at nearly 9:50 AM, extorted the bus driver and conductor by showing pistol on the name of Manoj baba (present petitioner) and as per records of Google pay and phone pay apps, Bank statement of the victim, i.e Waseem Ahmed (conductor) transferred ransom money using his own mobile No-9897621240 through Phone-Pay to the account of Shree ram s/o Hari chand (M. No-7400101045) from whom the co-accused Deepak has purchased a R.O filter water machine. After the ransom money has been transferred through Phone-Pay at 9:53 AM, the co-accused Deepak @ Deepu had a telephonic conversation with present petitioner at 9:56 AM. The call detail records of present petitioner Manoj baba (R-2), Call detail records of co-accused Deepak @ Deepu (R-3), Phone-Pay records (R-4), Bank statement records of Shree Ram (R-5) and statement u/s 161 Cr.P.C of Shree Ram are annexed as annexure R-2, R-3, R-4, R-5 respectively.

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On the same pretext of following the modus operandi of crime, earlier also on date 15-12-2021, "The co-accused Deepak @ Deepu along with other co-accused on 15-12-2021 at nearly 6:19 PM, extorted the bus driver and conductor by showing pistol on the name of Manoj baba (present petitioner) and as per records of Google pay and phone pay apps, Bank statement of the victim, i.e Mohd. Aazam (Bus conductor) transferred ransom money using his own mobile No-99917064489 through Google-Pay to the account of Raman Oberoi (M. No-7870000047) from whom the co-accused Deepak has purchased clothes. Before the commission of crime the co-accused Deepak @ Deepu had a telephonic conversation with present petitioner at 6:13 PM. The call detail records of present petitioner Manoj baba, Call detail records of co-accused Deepak @Deepu, Google-Pay records (R-6), Bank statement records of Raman oberoi (R-7) and statement u/s 161 Cr.P.C of Raman oberoi are annexed as annexure respectively. R-6, R-7 respectively.

Another similar incident took place on 21-12-2021 where in vichitra singh was also extorted by co-accused Deepak @ Deepu on the name of present petitioner Manoj Baba.

x x x

27. That, now the investigation has been transferred to State Crime Branch, Haryana and Additional Director General of Police, Crime Haryana Panchkula has constituted a SIT team headed by Sh. Hamid Akhtar IPS, DIG Crime-1, Panchkula along with the following members namely Amit Dahiya ASP, SCB, Madhuban, Inspector Roop Chand and Sub Inspector Kuldeep Singh SCB, Madhuban vide their office Memo No.1196-99/CR-I dated 20.01.2023. At present the investigation is being conducted by the said SIT in fair and impartial manner."

With regard to antecedents of the petitioner it has been averred

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as under: -

“26. That as per official record the present petitioner is habitual for committing heinous crime repeatedly and the following case were found registered against the present petitioner, the details are as under:-

I) FIR No. 227 dated 1.6.2008 under Sections 302, 307, 148, 149, 323 and 506 of IPC, P.S. Chandni Baag, Panipat. (convicted for life imprisonment).

II) FIR No. 85 dated 23.03.2022, under Sections 379B, 387 and 120-B of IPC and 25/54/59 Arms Act, Police Station 13/17 Panipat. (Under Investigation and still absconding).

III) FIR No. 134, dated 14.06.1995 under Sections 323, 341 and 506 of IPC, P.S. Chandni Baag, Panipat. (Acquitted).”

Learned counsel for the petitioner contended that the petitioner has been falsely implicated in the present case and has no concern with the alleged crime. He further submitted that during investigation nothing has been found against the petitioner and on the other hand affidavit dated 09.09.2022 has been submitted by the complainant wherein he has denied the involvement of the petitioner. He has further relied upon inquiry report dated 09.09.2022 (Annexure P-1) submitted by the Additional Director General of Police, Ambala Division, Ambala Cantt., and submitted that even in the said report nothing has been mentioned against the petitioner and he has been given a clean chit. Therefore, the petitioner is entitled for grant of anticipatory bail.

Per contra, learned State counsel submitted that custodial interrogation of the petitioner is required for proper investigation. She further submitted that in view of the antecedents of the petitioner, he is not entitled for grant of pre-arrest bail. She further submitted that report dated 09.09.2022 (Annexure P-1) does not absolve the petitioner from

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crime and the said report is not conclusive evidence as investigation is still underway and ADGP Crime vide his office memo dated 17.02.2022 has announced Rs.15000/- reward for persons giving information leading to the arrest of the present petitioner and now the investigation has been transferred to the State Crime Branch, Haryana and the Additional Director General of Police, Crime Haryana Panchkula has constituted Special Investigation Team headed by Sh. Hamid Akhtar, IPS, DIG Crime-I, Panchkula, along with other members vide letter dated 20.01.2023 and the investigation is being conducted by the SIT in fair and impartial manner and keeping in view the gravity of the allegations, petitioner is not entitled for grant of pre-arrest bail.

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

From the perusal of the record it has been established that petitioner was specifically named in the FIR and his name also came in the disclosure statements of the co-accused. Further, the CDR of the suspected numbers was obtained by the police and on examination of the CDR it has been revealed that from 07.12.2021 to 24.01.2022 (time of continuous crime), the petitioner has talked 65 times from his mobile phone No.8708172588 to co-accused Deepak @ Deepu and 56 times with Pawan @ Khundia. Further, during investigation conducted by the S.P., Kurukshetra, where call details have been examined and as per call detail record of mobile phone No.8708172588 used by the petitioner, frequent calls have been exchanged between the petitioner and other co-accused Deepak @ Deepu, Pawan @ Khundia and Imran and the said details have

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already been reproduced above. Now the investigation has been transferred to the State Crime Branch, Haryana and the Additional Director General of Police, Crime Haryana Panchkula has constituted Special Investigation Team headed by Sh. Hamid Akhtar, IPS, DIG Crime-I, Panchkula, along with other members vide letter dated 20.01.2023 and the investigation is being conducted by the SIT.

It is apt to mention here that in case FIR No.227 dated 01.06.2008 under Sections 302, 307, 148, 149, 323 and 506 IPC, registered at Police Station Chandni Baag, Panipat, the petitioner has been convicted and awarded life imprisonment by the trial Court. Petitioner has preferred appeal challenging his conviction before this Court, which is pending adjudication and he has been released on bail in above case. Present FIR and FIR No.85 dated 23.03.2022 under Sections 379-B, 387 and 120-B IPC and Sections 25/54/59 of the Arms Act, registered at Police Station 13/17, Panipat, have been lodged against the petitioner while he was on bail in FIR No.227 dated 01.06.2008.

Custodial interrogation of the petitioner is required for recovery of mobile phone, money and know the whereabouts of other accused who are involved in present case(s). The allegations levelled against the petitioner are serious in nature.

Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from custodial interrogation.

Moreover, the petitioner does not have clear antecedents

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inasmuch as that he is already involved in two other cases. It has been observed by Hon'ble the Apex Court in ***Gudikanti Narasimhulu vs Public Prosecutor, High Court of A.P. 1978(1) SCC 240*** that it is rational to enquire into the antecedents of the man who is applying for bail to find out whether he has a bad record, particularly a record which suggests that he is likely to commit serious offences while on bail.

In ***State represented by the C.B.I. versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268***, Hon'ble the Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful information.

In ***Jai Prakash Singh Versus State of Bihar and another etc., 2012(2) RCR (Criminal) 251***, Hon'ble the Apex Court observed that neither anticipatory bail nor regular bail can be granted as a matter of rule and the anticipatory bail being an extraordinary privilege should be granted only in exceptional cases.

Keeping in view the above facts and circumstances, the petitioner in the present case is not entitled for grant of anticipatory bail as no exceptional circumstance has been brought forth in that regard. Accordingly, the present petition under Section 438 Cr.P.C. seeking grant of anticipatory bail to the petitioner is dismissed.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only

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for the purpose of adjudicating the present bail petition.

Pending application(s), if any, also stand disposed of in view of aforesaid judgment.

22.02.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No