

CRM-M-3457-2023
CRM-M-45319-2022

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-3457-2023
Date of decision: 23.02.2023

SIMRANJEET KAUR

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

AND

CRM-M-45319-2022 (O&M)

KIRANJEET KAUR

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Lupil Gupta, Advocate for the petitioners.

Mr. Manipal Singh Atwal, DAG, Punjab.

Mr. Pradeep Virk and
Mr. Sukhveer Singh, Advocates for the complainant.

AMAN CHAUDHARY. J.

This common order shall dispose of two petitions bearing No.
CRM-M-3457-2023 and CRM-M-45319-2022 as both the petitions arise
out of the same FIR and can be disposed of simultaneously.

The present petitions have been filed under Section 438 Cr.P.C.
for the grant of anticipatory bail to the petitioners in respect of FIR No. 12
dated 24.01.2022 under Sections 302, 304, 201, 379 and 34 IPC (Section

302 IPC added later on) registered at Police Station Chatiwind, District Amritsar.

Learned counsel for the petitioners contends that the petitioners were not named in the FIR, which was initially registered under Sections 304, 201, 379 and 34 IPC, thereafter, in the supplementary statement made after 7 months of the incident by the mother of the deceased, who is the complainant, she named Kiranjeet Kaur and not Simranjeet Kaur. Thereafter, vide DDR No. 16 dated 25.12.2022, Annexure P-3, Section 302 IPC was added, wherein it has been mentioned that co-accused Akashdeep suffered a disclosure statement stating therein that both the co-accused namely Simranjeet Kaur and Kiranjeet Kaur (petitioner in CRM-M-45319-2022) had loaded the body of the deceased in the car. There is nothing to connect the petitioners to the alleged offence but for the disclosure statement, which is inadmissible in evidence. There is no eye witness to the incident and there are no call details record.

Learned State counsel opposes the bail on the ground that there is a specific role attributed to petitioner-Kiranjeet Kaur, inasmuch as, she alongwith co-accused-Simranjeet Kaur had loaded the body of the deceased in the vehicle and prior thereto in connivance with co-accused namely Veera Sharma, Munish Kumar (mother-in-law and husband of the petitioner Kiranjeet Kaur), Akashdeep Singh and Lakhandeep (who is absconding), committed the murder of son of the complainant by giving him an overdose of psychotropic substance with premeditated mind. He further submits that there are approximately 140 calls between all the co-accused amongst

themselves and the deceased on the date of incident and as per the allegations made in the supplementary statement that the complainant had received a call from her son (since deceased) that he was sitting in the house of co-accused Munish Kumar to get back his laptop and Rs.2 lakh that he had loaned. Therefore, they had motive to commit the offence as they were not ready to return his laptop or the amount. From co-accused Munish Kumar, the recovery effected is of laptop and purse of the deceased containing the Adhaar Card, Driving License and ATM card and from co-accused Akashdeep, gold chain of the deceased has been recovered. He further submits that after disposing of the body of the deceased, while the petitioners and the co-accused were returning, the car which was used in the commission of the offence, met with an accident on account of which another FIR was registered under Section 307 IPC as they are alleged to have run over some villagers. In the confessional statement of accused-Munish Kumar, the said crime has been admitted specifically stating that the deceased was called by them to their house and after deliberations, the substance was administered to him. Still further, there are 9 FIRs against the co-accused Veera Sharma, which are as under:-

1. FIR No. 19 dated 20.01.2018
2. FIR No. 44 dated 08.02.2013
3. FIR No. 170 dated 19.06.2018
4. FIR No. 308 dated 29.11.2018
5. FIR No. 78 dated 15.03.2020
6. FIR No. 39 dated 13.03.2021
7. FIR No. 22 dated 18.06.2014
8. FIR No. 81 dated 23.04.2022
9. FIR No. 166 dated 20.07.2022

There are 7 FIRs against co-accused Munish Kumar:-

1. FIR No. 26 dated 31.01.2018
2. FIR No. 19 dated 20.01.2018
3. FIR No. 8 dated 02.02.2016
4. FIR No. 9 dated 12.01.2015
5. FIR No. 222 dated 18.06.2014
6. FIR No. 166 dated 20.07.2022
7. FIR No. 81 dated 23.04.2022

There are 2 more FIRs registered against Kiranjit Kaur:-

1. FIR No. 81 dated 23.04.2022, under Sections 379B, 306 IPC.
2. FIR No. 166 dated 20.07.2022, under Sections 379B, 342, 323, 506 IPC.

Similarly, there are 2 more FIRs against Simranjeet Kaur:-

1. FIR No. 308 dated 29.11.2018, under Sections 379-II, 506 read with Section 201 IPC.
2. FIR No. 166 dated 20.07.2022, under Sections 379B, 342, 323, 506 IPC.

There is one more FIR registered against Akashdeep, i.e. FIR No. 11 of 2022.

Heard the learned counsel for the parties.

Hon'ble The Supreme Court in “**Jai Parkash Singh vs. State of Bihar**” (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.

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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.

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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.”

Though the petitioners were not named in the FIR, but during investigation, co-accused has ascribed specific role to them in commission of the crime. The co-accused, alongwith whom the petitioners are alleged to have conspired and committed the offence, are habitual offenders having large number of cases registered against them. The

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investigation is going on and their custodial interrogation has been sought to ascertain the mode and manner of committing the offence, wherein the allegations are of murder of son of the complainant and even the recovery of the stolen articles is yet to be effected.

Considering the facts and circumstances of the case, the crime being heinous, allegations grave in nature, the antecedents of the petitioners; the manner in which the crime has alleged to have been committed and in the light of the judgment referred to above, this Court is not inclined to grant concession of anticipatory bail to the petitioners. Accordingly, both the petitions being devoid of merits are dismissed.

A photocopy of the judgment be placed on the file of the connected case.

(AMAN CHAUDHARY)
JUDGE

23.02.2023

Mehak

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