

CRM-M-6010-2023 (O & M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-6010-2023 (O & M)

Date of decision:07.11.2023

Rajwinder Singh

..... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Aman Raj Bawa, Advocate
For Mr. M.S. Chauhan, Advocate, for the petitioner.

Ms. Ramta K Chaudhary, DAG, Punjab.

Mr. G.S. Simble, Advocate, for the complainant.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 438 Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No.0402 dated 25.12.2022 under Sections 189, 195-A and 506 IPC registered at Police Station Civil Lines Batala, District Gurdaspur, Punjab.

2. The contents of the FIR are reproduced hereunder:-

“Application No. 3642-P Dated 13-12-2022 To, Hon'ble Senior Superintendent of Police, Batala. Sir, It is request that I am posted as an Inspector in your Police District Batala at Police Line. I have served as SHO in many police stations. As a SHO I have registered various cases on liquor mafia and bad elements. Last night around 11 pm I got a call on whatsapp from a number which is 9781352130 and I started saying that you have not done good with us. I asked him about him and he told me his name was Raju. After that he threatened to kill me and said that if you testify against us, we will shoot you in the chowk and also said that he have connections with many gangsters, you just start counting your days and used abusive

CRM-M-6010-2023 (O & M)

language. Sir, now there are no gunmen attached to me as an inspector, due to which these bad elements are a threat to me and my family. The said person is the same person against whom I have registered a case as the SHO Fatehgarh Chudian police station for selling illegal liquor. Please take appropriate legal action against this person for stopping the government official from discharging his legal duties and make sure to ensure the safety of me and my family. I will be very thankful to you. SD/-Prabhjot Singh, Inspector, Belt No. 6/PRT Police Line Batala. Dated 13-12-2022, which was investigated by Hon'ble SP/Investigation, Batala which is as follows: During the investigation the application, the undersigned has penned the investigation joining both the parties. From the reading of the statement, it is found that Inspector Prabhjot Singh No. 6/PRT while being posted as SHO Fatehgarh Chudian Police Station has registered FIR No. 88 dated 06-09-2022 under section 61-1-14 Excise Act at PS Fatehgarh Chudia against Prem Masih son of Khalak Masih resident The Dogar. Accused Prem Masih suffered a statement while in police custody on which Rajwinder Singh son of Harbans Singh resident of Awan, Fatehgarh Churian, Circle Incharge Rajindra wines was nominated as accused in the said FIR. After this, in connection with the running of an illegal contract branch by Rajindra Wines in town Fatehgarh Churian, FIR No. 91 dated 13-09-2012 under section 61-1-14 Excise Act PS Fatehgarh Churian was registered against Varinder Singh son of Surat Singh resident of Kotla Gujra, Amritpal Singh son of Harbans Singh resident of Thattha and Deepak son Jaspal Singh resident of Fatehgarh Churian. On the night of 12-12-2022 at about 11.00 PM Inspector Prabhjot Singh received a WhatsApp call from mobile phone number 97813-52130. who said his name as Raju and asked him to testify in favour of accused or get hostile from his testimony in the said cases and threatened to kill him if he did not do so he was threatened for his life. Rajwinder Singh son of

CRM-M-6010-2023 (O & M)

Harbans Singh, resident of Awan, Police Station Fatehgarh Churian also admits in statement that on the night of 12- 12- 2022 he called Inspector Prabhjot Singh on whatsapp. Therefore, the SHO, Police Station Civil Line Batala is instructed to register a case against Rajwinder Singh son of Harbans Singh resident of Awan under 189, 195-A, 506 of the Indian Penal Code under the charges of refusing to testify and threatening to kill Inspector Prabhjot Singh No. 06/PRT. A case should be registered and the investigation should be carried out. The report is presented. SD/- Gurpreet Singh, PPS, SP Investigation, Batala, SHO Police Station Civil Line Batala should register the case and carry out the investigation. Sd/-SSP, Batala. Date 25-12- 2022. Today Police Station- At present inquiry report along with the said application received at police station and register the said FIR and copy FIR, original application along with inquiry report for further investigation handed over to SI Balwinder Singh, 2396 and after preparing a special report which has been reported to the control room through wireless. The special report is prepared and by hand of PHC Japnam Singh 3242 is sent to the service of the senior officers”.

3. The learned counsel for the petitioner contends that the petitioner had been falsely implicated in the present case. He is merely an employee of “Rajindra Wines” which is a reputed named in the liquor business area. The true facts were that the complainant who was posted as an SHO at Police Station Fatehgarh Churian had demanded two cases of Scotch whiskey from the petitioner and had threatened him with dire consequences in case of denial. As the petitioner had expressed his inability to fulfill the illegal demands merely being an employee of “Rajindra Wines” he was falsely implicated in the present case. He contends that as the

CRM-M-6010-2023 (O & M)

petitioner had joined investigation and co-operated with the same, he was entitled to the concession of anticipatory bail.

4. The learned counsel for the State, on the other hand, has filed a reply dated 07.11.2023 and the same is taken on record. She contends that the complainant-Inspector Prabhjot Singh had registered an FIR No.88 dated 06.09.2022 under Sections 61/1/14 of the Excise Act, Police Station Fatehgarh Churian against the petitioner and it was in that context that the petitioner had threatened the complainant with dire consequences, in case, the complainant chose to depose against the petitioner. The petitioner was a habitual offender as was apparent from four other cases registered against him. On an earlier occasion, he had threatened Manjit Singh, Kanungo regarding which an application had been moved by Manjit Singh, though, the matter had been settled later on. As the offence was *prima facie* established and the investigation was to be taken to its logical conclusion, the petitioner was not entitled to the grant of anticipatory bail.

5. The learned counsel for the complainant, on the other hand, contends that the investigation conducted so far has *prima facie* established the offence in question. The conduct of the petitioner is also not above-board. Despite four other cases pending against him, he had stated in Para 13 of the petition that there was no other FIR registered against him. As the allegations against the petitioner were grave and the investigation was to be taken to its logical conclusion, the petitioner was not entitled to the concession of the anticipatory bail.

6. I have heard the learned counsel for the parties.

CRM-M-6010-2023 (O & M)

7. The Hon'ble Supreme Court in the case of '**Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022(4) RCR (Criminal) 977**', held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the prima facie case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

"It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

*We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. **In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone***

CRM-M-6010-2023 (O & M)

would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

8. A perusal of the reply dated 07.11.2023 filed on behalf of the respondent-State would establish that the petitioner is an accused in four other cases bearing FIR No.75 dated 03.12.2015 under Sections 379, 327, 148 and 149 IPC, Police Station Fatehgarh Churian, FIR No.09 dated 21.01.2018 under Sections 336, 506, 148 and 149 IPC and Sections 25/27/54/59 of the Arms Act, Police Station Fatehgarh Churian, FIR No.10 dated 24.10.2018 under Sections 323, 324, 325, 336, 427, 506, 148 and 149 IPC and Sections 25/27/54/59 of the Arms Act, Police Station Fatehgarh Churian and FIR No.21 dated 09.03.2021 under Sections 323, 324, 380, 148 and 149 IPC, Police Station Ghanie Ke Banger. He appears to be a habitual in threatening and harassing public/Government employees using the mobile phone and another complaint in this regard had been submitted by Manjit

CRM-M-6010-2023 (O & M)

to be compromised. Further, the investigation conducted so far would reveal that the offence of threatening the complainant stands *prima facie* established. The alleged phone call was made on the intervening night 12/13.12.2022 and the complaint which has led to the registration of the FIR was made on the same day i.e. 13.12.2022. Even though the petitioner has joined investigation, the nature of the allegations levelled against him, his conduct and the fact that the investigation is to be taken to its logical conclusion does not entitle him to the grant of anticipatory bail.

9. Keeping in view the aforementioned discussion, I find no merit in the present petition and the same stands dismissed.

10. However, the observations made hereinabove are only for the purpose of deciding this anticipatory bail petition and the Trial Court is free to adjudicate upon the matter on the basis of the evidence lead before it uninfluenced by any such observations made.

(JASJIT SINGH BEDI)
JUDGE

November 07, 2023
sukhpreet

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