

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

CRM-M-16500-2023

Date of Decision: 10.04.2023

DILBAGH SINGH

...Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Vipin Mahajan, Advocate
for the petitioner.

Mr. Subhash Godara, Addl. A.G., Punjab.

HARSH BUNGER, J. (ORAL)

Petitioner has filed this petition under Section 438 of the Code of Criminal Procedure, seeking anticipatory bail in case FIR No.25 dated 16.05.2022, registered under Section 306 of the Indian Penal Code, 1860, at Police Station G.R.P. Pathankot, District Government Railway Police (Annexure P-1).

Brief facts of the case are that the FIR in question, was registered on the statement of one Sunil son of late Prem Masih resident of Village Suchanian, Police Station Ghuman Kalan, District Gurdaspur, who had alleged that his father namely, Prem Masih was working as a labourer with one Dilbag Singh (present petitioner) son of Mohinder Singh, for the last about four years and on 16.05.2022 at about 4:30 a.m., Dilbag Singh and his son Harpreet Singh @ Happy came to their house and slapped his father and thereafter, his father went with them for work. It is alleged that both of them harassed his father and on 16.05.2022 at about 7:00 a.m., he came to know from one Rajinder Masih

on his phone that his father Prem Masih has committed suicide by placing his head under the train. It is stated that when he went to the spot along with one Mandeep Masih, there he saw that a head was lying inside the railway lines and the body was lying outside the railway lines.

On the basis of above said complaint, the FIR in question, was registered.

Apprehending arrest in this case, the present petitioner approached the Court of Additional Sessions Judge, Gurdaspur, seeking anticipatory bail; however, the same was rejected vide order dated 16.06.2022 (Annexure P-3). Thereafter, petitioner filed another application seeking anticipatory bail by relying on the compromise and the same was also dismissed vide order dated 07.11.2022. Accordingly, the petitioner has filed the instant petition before this Court seeking anticipatory bail.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in this case and no offence under Section 306 of the Indian Penal Code, is made out as no instigation or abetment was done by him. It is further submitted that the petitioner never visited the house of the deceased on the alleged date of incident i.e. 16.05.2022. Learned counsel further submitted that the petitioner has already entered into compromise with son of the deceased, therefore, he should be extended the concession of anticipatory bail. It is also submitted that the petitioner is ready and willing to join investigation as and when required by the Investigating Agency.

Per contra, learned State counsel has opposed the plea of bail sought by the petitioner by submitting that the offence is serious in nature and he is specifically named in the FIR. Further, as per the allegations levelled in the FIR, the petitioner had come to the house of the deceased at

4:30 a.m. on 16.05.2022 and after about 2½ hours i.e. at about 7:00 a.m., the information regarding commission of suicide by Prem Masih was received by the petitioner on his phone. He further submitted that specific allegations of harassment and humiliation have been levelled against the petitioner. He further submitted that the anticipatory bail petition of son of the petitioner namely, Harpreet Singh, against whom similar allegations were there, has been dismissed vide order dated 10.02.2023 passed in **CRM-M-4507-2023**. Accordingly, he prayed for dismissal of this petition.

I have heard learned counsel for the parties and have perused the paper book with their able assistance.

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.

A perusal of the FIR would *prima facie* indicate abetment on the part of the petitioner as it has been specifically mentioned in the FIR that the petitioner had slapped the deceased (father of the complainant) and within 2½ hours thereof, the dead body of the deceased was found on the railway track. The contention of the petitioner that a compromise has been effected with the complainant in this case is also without any merit as the offence under Section 306 of the Indian Penal Code is broadly against the deceased himself and there can be no compromise with the dead man.

Even otherwise, the anticipatory bail petition filed by co-accused of the petitioner namely, Harpreet Singh, against whom similar allegations were there as of the petitioner, has been dismissed vide order dated 10.02.2023 passed in **CRM-M-4507-2023**).

In my considered view, the custodial interrogation of the petitioner is definitely required for complete and effective investigation. In case, custodial interrogation of the petitioner is denied to the investigating agency, that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely which is not called for. 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 *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 present petition under Section 438 Cr.P.C. seeking grant of anticipatory bail to the petitioner in case FIR No.25 dated 16.05.2022, registered under Section 306 of the Indian Penal Code, 1860, at Police Station G.R.P. Pathankot, District Government Railway Police (Annexure P-1); 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 for the purpose of adjudicating the present bail petition.

April 10, 2023
gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No