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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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Date of Decision: 24.05.2023

Satbir Singh

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Suneel Sharma, Advocate
for the petitioner.

Mr. Ram Kumar Singla, DAG, Haryana.

Mr. Ishnoor Singh, Advocate for
Mr. Rakesh Gupta, Advocate
for the complainant.

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.64 dated 07.02.2023, registered under Section 506 (Section 387 added later on) of the Indian Penal Code, at Police Station Pinjore, District Panchkula.

2. Upon issuance of notice in this case, reply by way of an affidavit of Ram Kumar, HPS, Assistant Commissioner of Police, Kalka on behalf of respondent-State of Haryana, has been filed, which is already taken on record.

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3. Briefly, the above-said case FIR was registered on the complaint of one Chain Singh Gautam, wherein it is alleged that on 06.02.2023, he was present at his house and at about 10:16 P.M., a phone call was received at the mobile phone of his wife bearing No.9034900809 from an unknown person bearing mobile No.8699471996 and the caller disclosed his name as Satbir Gujjar. Thereafter, wife of the complainant handed over the mobile phone to the complainant stating that one person namely Satbir Gujjar is speaking and giving threatenings to kidnap their children and cut their hands and legs as well as kill them; whereupon, the complainant conversed with the caller and requested that neither there is any dispute between them nor there is any relation, however, the caller is alleged to have abused the complainant and stated that his son left the house at 08:00 A.M. and he would kidnap his son and show him the trailer. Thereafter, the caller stated that he had already cut the hands and legs of one person in Rohtak and now it is the turn of complainant to see the trailer in the morning. It is further alleged that the complainant went to the Police Station, Pinjore for lodging the complaint and when the complainant made a phone call from the mobile of his wife while keeping speaker on, then in the presence of ASI Rishipal, the caller again started giving threatenings that he will cut their hands and legs and disclosed his name as Satbir Gujjar. The complainant further alleged that he suspects that the person giving threats is associated with two persons of Kambwala, Chandigarh. Accordingly, the afore-said case FIR was registered.

4. Apprehending arrest in this case, the present petitioner approached the Court of learned Sessions Judge, Panchkula, seeking

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anticipatory bail; however, the same was rejected vide order dated 10.04.2023 (Annexure P-3). Accordingly, the petitioner has filed the instant petition before this Court seeking anticipatory bail.

5. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. It is submitted that the petitioner belongs to District Mohali and he does not have any relation with Kambwala Village. Learned counsel for the petitioner further submits that the petitioner is neither using this number nor this number is registered in the name of petitioner. It is stated that the matter has been settled between the complainant and the petitioner with the intervention of the respectable persons, vide compromise deed dated 27.03.2023 (Annexure P-2). It is further stated that the petitioner is involved in six other cases but one FIR has been disposed of and in remaining five, the petitioner is facing trial regularly and has been granted regular bail. Learned counsel for the petitioner submits that the anticipatory bail application moved by the petitioner, has wrongly been rejected vide order dated 10.04.2023 (Annexure P-3) by the Court of learned Sessions Judge, Panchkula. It is also submitted that the petitioner is ready and willing to join investigation as and when required by the Investigating Agency or as directed by this Court or the trial Court.

6. Per contra, learned State counsel has opposed the plea of bail sought by the petitioner on account of seriousness and gravity of the offence. Learned State counsel has submitted that the petitioner is seeking bail primarily on the ground that he has entered into a compromise with the complainant, however, the instant case FIR has been registered also under

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Section 387 of the Indian Penal Code, 1860 which is non-compoundable.

It is stated by learned State counsel that the alleged compromise dated 27.03.2023 (Annexure P-2) has been done by putting the complainant under fear or pressure. Learned State counsel has further submitted that the alleged compromise dated 27.03.2023 (Annexure P-2) which is attached with the bail petition is not the compromise which was placed before the Court of learned Sessions Court as the learned Sessions Judge while referring to the said compromise as was placed before him made the following observations:

8. *Now, the only change on the basis of present application is the alleged compromise between the complainant party and accused-applicant. Copy of the compromise has been placed on file, whereby complainant Chain Singh and his wife Smt.Meena Devi have compromised the matter with the applicant-accused in the presence of Ms.Geeta Devi, Municipal Councillor, MC Kalka and others. In the compromise, it is clearly mentioned that Satbir Gujjar applicant has threatened and demanded ransom from Chain Singh and his wife Smt.Meena Devi, however, now, Satbir Gujjar has felt sorry to Chain Singh and his wife Meena Devi. Therefore, it is clear that the applicant has actually threatened and demanded ransom from the complainant. The offence under Section 387 of IPC alleged against the applicant is not compoundable. The applicant is involved in the following six more cases:*

1. *FIR No. 10 dated 18.02.2017 under Sections 323, 324, 506, 379-B and 34 of IPC, PS Naya Gaon, District Mohali Punjab.*

2. *FIR No.44 dated 01.02.2017 under Sections 147,148,323, 447,452, 506 and 511 of IPC, PS Pinjore.*

3. *FIR No.79 dated 05.03.2017 under Sections 148,149,323, 506, 307, 427 and 34 of IPC, and 25 of Arms, Act, 1959; PS Pinjore.*

4. *FIR No.302 dated 12.07.2019 under Sections 148,149,323, 332, 353 of IPC, PS Baldev Nagar, District Ambala.*

5. *FIR No.370 dated 11.09.2021 under Sections 148,149,323,325,425, 506, 473 and 120-B of IPC, PS Pinjore, District Panchkula.*

6. *FIR No.231 dated 17.06.2017 under Sections 332,353,307, 224,225,120-B/ 34 of IPC, and 25 of Arms, Act, 1959; PS Sector 5, Panchkula.*

9. *Moreover, if a person is having such criminal background, then there is every possibility that the complainant might have been pressurized by the applicant to come to his terms. Therefore, no grounds are made out to extend the benefit of anticipatory bail to the applicant-accused.”*

It is further submitted that the petitioner is involved in another FIR No.72 dated 11.04.2023, registered under Section 25(1A), 25(1AA)-48-2019 of the Arms (Amendment) Act, registered at Police Station Raipur Rani, District Panchkula, wherein, the present petitioner has been nominated by one of the co-accused namely Sahil in his disclosure statement and the petitioner is also evading arrest in the said FIR. Accordingly, it is prayed that the petitioner does not have clean antecedents, hence he is not entitled to any indulgence. Accordingly, prayer for dismissal of the instant petition is made.

7. I have heard learned counsel for the parties and also gone through the paper book as well as the status report filed on behalf of the respondent-State of Haryana.

8. I have gone through the FIR and it is noticed that the petitioner has been specifically named in the FIR and specific role has been attributed to him that he had threatened the complainant. Further, the petitioner does

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not have clean antecedents as he is involved in six other cases and as per the Status Report, the petitioner is stated to be evading his arrest in FIR No.72 dated 11.04.2023. Apart from the above, when a pointed query was raised to learned counsel for the petitioner as to whether, the compromise dated 27.03.2023 (Annexure P-2) as has been attached with the petition is the same which was placed before the learned Sessions Court at the time of the decision of the bail petition by learned Sessions Court, however, no reply is forthcoming. It *prima facie* appears that the alleged compromise has been got executed by putting the complainant under fear or pressure.

9. 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.

10. 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.

11. 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 informations.

12. In ***Jai Prakash Singh Versus State of Bihar and another etc.,***

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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.

13. 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 in case FIR No.64 dated 07.02.2023, registered under Section 506 (Section 387 added later on) of the Indian Penal Code, at Police Station Pinjore, District Panchkula; is dismissed.

14. 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.

15. Pending application(s), if any, shall stand disposed of.

24.05.2023
Himani

(HARSH BUNGER)
JUDGE

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| 1. Whether speaking/reasoned : | Yes/No |
| 2. Whether reportable : | Yes/No |