

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

**CRM-M-20626-2023 (O&M)
Date of Decision: 22.05.2023**

SATPAL SINGH ALIAS SATTA

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Kulwinder Singh, Advocate
for the petitioner.

Mr. Harjinder Singh Sidhu, A.A.G., Punjab.

HARSH BUNGER J. (ORAL)

Petitioner has filed this petition under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No. 98 dated 19.12.2022 registered under Sections 307, 353, 186, 148, 149 of Indian Penal Code (in short “IPC”) at Police Station Lakhewali, District Sri Muktsar Sahib.

2. Upon issuance of notice in this case, status report by way of affidavit dated 10.05.2023 of Sh. Balkar Singh, PPS, Deputy Superintendent of Police, Sub-Division Malout, District Sri Muktsar Sahib, on behalf of respondent-State of Punjab, has been filed, which is already on record.

3. Briefly, the afore-stated FIR was registered on the complaint of Sub Inspector Navpreet Singh, SHO, Police Station City, Sri Muktsar Sahib who stated that one information was received from ASI Baldev Singh (No.5/SMS) that he tried to apprehend Rakesh Kumar son of Nathu Ram

alongwith an Alto car (without number), however Rakesh Kumar left the vehicle in the traffic and fled away from the spot and intoxicating tablets were recovered from the car; whereupon, Sub Inspector Laljit Singh was sent to the spot for investigation. In the meantime, a special informer informed that the above-said Rakesh Kumar after fleeing away from the spot, had hidden in the house of Mandar Singh @ Mandar Khalsa son of Joginder Singh of Village Bhangchhari. Thereafter, the complainant along-with police party reached at Village Bhangchhari for raid, which was conducted at the house of Mandar Singh Khalsa and Rakesh Kumar was apprehended, however Mandar Singh Khalsa and his wife started arguing and scuffled with police party so as to save him. Thereafter, the police party brought Rakesh Kumar in the street and then Mandar Khalsa, his brother Satta Singh, Gurbaj Singh alias Bahla Singh, Jaspreet Singh and 15-20 unknown persons attacked on police party with intention to kill and tried to rescue Rakesh Kumar from police party and interrupted police from performing their duties. Accordingly the above-said FIR was registered.

4. Apprehending his arrest in this case, the petitioner approached the Court of Additional Sessions Judge, Sri Muktsar Sahib seeking grant of pre-arrest bail by filing an application; however, the same was declined by the learned Additional Sessions Judge, Sri Muktsar Sahib, vide order dated 12.04.2023. Accordingly, the petitioner has filed this petition under Section 438 Cr.P.C. seeking anticipatory bail.

5. Learned counsel for the petitioner has contended that the petitioner is innocent and has been falsely implicated in the present case. It is submitted that the petitioner never scuffled with the police party and only arguments were exchanged between Sukhjit Kaur, Mandar Khalsa and police party. It is submitted that due to noise on the street, petitioner and

other villagers reached at the spot and due to gathering of people, complainant fired three shots in the air and petitioner never gave brick bat blow on police party and no offence under section 307 IPC is made out against the petitioner. It is next submitted that the co-accused Sukhjit Kaur was granted anticipatory bail and other co-accused Gurbaj Singh has been granted regular bail. It is further submitted that nothing is to be recovered from the petitioner. It is stated that the petitioner is ready to join the investigation and to comply with other conditions as may be imposed by this Court or by the trial Court. Accordingly, prayer for grant of anticipatory bail has been made.

6. Per contra, learned State counsel has opposed the prayer for grant of anticipatory bail to the petitioner on account of seriousness and gravity of offence. It is submitted that the petitioner is specifically named in the FIR and he alongwith other accused obstructed police party in performing their duty and tried to save Rakesh Kumar, regarding which raid was conducted at the house of Mandar Singh Khalsa. Learned State counsel while reiterating the averments made in the status report filed on behalf of State, submitted that the complainant and police party were attacked by the accused persons and they gave brickbat blows to the complainant with an intention to kill, whereupon the complainant fired shots in the air from his service revolver and save himself and fellow officials. It is stated that the petitioner played active role in commission of crime. It is also submitted that the custodial interrogation of the petitioner is required for complete investigation of this case and accordingly, prayer for dismissal of the petition has been 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

State of Punjab.

8. Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. In ***P. Chidambaram v. Directorate of Enforcement (SC) : 2019(4) RCR (Criminal) 875***, Hon'ble Supreme Court observed as under :-

"67. Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. Power under Section 438 Cr.P.C., 1973 is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy.

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70. We are conscious of the fact that the legislative intent behind the introduction of Section 438 Cr.P.C., 1973 is to safeguard the individual's personal liberty and to protect him from the possibility of being humiliated and from being subjected to unnecessary police custody. However, the court must also keep in view that a criminal offence is not just an offence against an individual, rather the larger societal interest is at stake. Therefore, a delicate balance is required to

be established between the two rights - safeguarding the personal liberty of an individual and the societal interest. It cannot be said that refusal to grant anticipatory bail would amount to denial of the rights conferred upon the appellant under Article [21](#) of the Constitution of India.

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*72. Ordinarily, arrest is a part of the process of the investigation intended to secure several purposes. There may be circumstances in which the accused may provide information leading to discovery of material facts and relevant information. Grant of anticipatory bail may hamper the investigation. Pre-arrest bail is to strike a balance between the individual's right to personal freedom and the right of the investigating agency to interrogate the accused as to the material so far collected and to collect more information which may lead to recovery of relevant information. In State Rep. by The **CBI v. Anil Sharma (1997) 7 SCC 187**, the Supreme Court held as under:-*

"6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being

subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders."

73. Observing that the arrest is a part of the investigation intended to secure several purposes, in ***Adri Dharan Das v. State of W.B. (2005) 4 SCC 303***, it was held as under:-

"19. Ordinarily, arrest is a part of the process of investigation intended to secure several purposes. The accused may have to be questioned in detail regarding various facets of motive, preparation, commission and aftermath of the crime and the connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to discovery of material facts. It may be necessary to curtail his freedom in order to enable the investigation to proceed without hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his disappearance, to maintain law and order in the locality. For these or other reasons, arrest may become an inevitable part of the process of investigation. The legality of the proposed arrest cannot be gone into in an application under Section 438 of the Code. The role of the investigator is well defined and the jurisdictional scope of interference by the court in the process of investigation is limited. The court ordinarily will not interfere with the investigation of a crime or with the arrest of the accused in a cognizable offence. An interim order restraining

arrest, if passed while dealing with an application under Section 438 of the Code will amount to interference in the investigation, which cannot, at any rate, be done under Section 438 of the Code.

*75. After referring to Siddharam Satlingappa Mhetre and other judgments and observing that anticipatory bail can be granted only in exceptional circumstances, in **Jai Prakash Singh v. State of Bihar and another (2012) 4 SCC 379**, the Supreme Court held as under:-*

*"19. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroled in the crime and would not misuse his liberty. (See **D.K. Ganesh Babu v. P.T. Manokaran (2007) 4 SCC 434**, **State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain (2008) 1 SCC 213** and **Union of India v. Padam Narain Aggarwal (2008) 13 SCC 305**.)"*

9. Considering the case in hand in view the afore-stated legal position, would manifest that the petitioner has been specifically named in the FIR. Petitioner alongwith other co-accused is alleged to have given brick bat blows to the police party headed by complainant, which had raided the premises of Mandar Singh Khalsa to apprehend Rakesh Kumar. The question as to applicability of the provisions of Section 307 of the IPC has to be decided on the basis of evidence to be produced during trial and

cannot be conclusively judged at this stage. In the recent past, cases of

assault or use of criminal force to obstruct or prevent the police party / public servants from discharging their duties are on the increase. Such incidents tend to shake the confidence of a common man upon law enforcement agencies of State and cannot be permitted. Such cases of assault on public servants / police party is required to be dealt with a firm hand so as to enable such public servants to effectively discharge their duties without any fear. The petitioner is to be questioned in detail regarding various facets of the crime. Thus, custodial interrogation of the petitioner is definitely required for complete and effective investigation so as to find out how the incident was planned and executed and part played by each one of the assailants. Custodial interrogation of the petitioner may provide information leading to discovery of material facts. 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.

10. Keeping in view the above discussion, 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. 98 dated 19.12.2022, registered under Sections 307, 353, 186, 148, 149 of IPC at Police Station Lakhewali, District Sri Muktsar Sahib, is dismissed.

11. 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.

12. All pending applications (if any) shall stand closed.

May 22nd, 2023
gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable :

Yes/No