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

CRM-M-23743-2023

Date of decision : 12.05.2023

Hardeep Singh**.....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ*********

Present :- Mr. H.P.S. Ishar, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

*********RAJESH BHARDWAJ, J.**

Prayer in the present petition is for grant of anticipatory bail to the petitioner in case FIR No.4 dated 11.01.2023, under Sections 379, 353, 186, 341, 506, 148, 225 of IPC and Section 21(3) of Mines and Minerals (Regulation of Development) Act, 1957, registered at Police Station Lakhe Ke Behram, District Ferozepur.

As per the facts of the case, present FIR was lodged on the statement of Inspector Bachan Singh, Police Station Lakho K Bahram. It was alleged that he along with his police party was on night duty for checking the vehicles. During that time, when they were passing through the railway crossing bridge they stopped Mahindra Tractor. On asking the name of the driver, he disclosed his name as Paramjit Singh @ Pamma.

When they were questioning Paramjit Singh in the meantime, Harnek

Singh Mahima, Dipu, Hardeep Singh, Rachpal Singh, Akash, Jhirmal Singh, Nachhatar Singh and Hardeep Singh @ Sonu and 6-7 other unidentified persons including Namlum Vasian came on motorcycle and obstructed the police party from discharging their duty. The police party was abused and threatened and took away Paramjit Singh along with the tractor forcibly from the police. The video of the incident was also prepared and thus, the FIR was registered for further legal action. The petitioner along with other accused approached the Court of learned Additional Sessions Judge, Ferozepur praying for grant of anticipatory bail. However, after hearing counsel for both the sides, learned Additional Sessions Judge, declined the same vide order dated 19.01.2023. Aggrieved by the same, petitioner is before this Court praying for grant of anticipatory bail.

Learned counsel for the petitioner has contended that the petitioner has been falsely implicated in this case. He submits that as per Section 22 of Mines and Minerals Act, the Court cannot take cognizance of the offence as alleged. He submits that the allegations are made by the police and hence, the prosecution of the petitioner in the FIR is nothing but an abuse of the process of the Court. He further submits that the allegations made by the police are totally false and frivolous as no such occurrence had taken place. He further submits that in the facts and circumstances of the case, no case for the custodial interrogation is made out and thus, he deserves to be granted anticipatory bail.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner and has stated that the petitioner obstructed the police party from discharging their duty and they abused

them and got released Paramjit Singh along with tractor trolley from the custody of police. As the petitioner and his associates have committed serious offence so he is not entitled for pre-arrest bail. He further states that custodial interrogation of the petitioner is very much necessary to reveal the truth.

Heard. After hearing counsel for the petitioner and perusing the record, it is apparent that there are specific allegations against the petitioners and the co-accused regarding obstructing the police party from performing their duties. The tractor along with the trolley full of sand was stopped by the police party and the co-accused Paramjit Singh was stopped. Further all the accused in connivance with each other forcibly took away Paramjit Singh along with the tractor forcibly from the police. The similarly situated co-accused Jharmal Singh @ Jhirmal Singh approached this Court by way of CRM-M-12692-2023 which was allowed to be dismissed as withdrawn vide order dated 15.03.2023. Learned counsel is unable to distinguish the case of the petitioner from that of the co-accused Jharmal Singh @ Jhirmal Singh.

For the consideration of anticipatory bail, the statutory parameters are given under Section 438(1) Cr.P.C. which reads as under:-

“Direction for grant of bail to person apprehending arrest:-

(1) Where any person has reason to believe that he may be arrested on 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.”

As per the law settled by the Hon'ble Supreme Court, in Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632, while granting anticipatory bail, the Court is to maintain a balance between the individual liberty and the interest of society. However, the interest of the society would also prevail upon the right of personal liberty. The relevant part of the judgment is as follows:-

31. In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the state" are some of the considerations which

the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in State v. Captain Jagjit Singh (1962) 3 SCR 622, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.

The Hon'ble Supreme Court in State Vs. Anil Sharma, (1997)

7SCC 187, 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 favorable 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.

Weighing the facts and circumstances of the present case on the anvil of law settled, this Court is of the opinion that the petitioner does not qualify for exercising the extraordinary power by this Court in his favour. Resultantly, the petition being devoid of any merit is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

12.05.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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