

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

(102)

**2023:PHHC:070959**  
**CRM-M-24499-2023**  
**Date of Decision: 15.05.2023**

Ravi Kumar

--Petitioner

Versus

State of Haryana

--Respondent

**CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.**

Present:- Mr. G.S. Sandhu, Advocate for the petitioner.

Mr. Sandeep Kumar, AAG, Haryana.

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**RAJESH BHARDWAJ.J (Oral)**

The present petition has been filed under Section 438 Cr.P.C seeking the benefit of anticipatory bail to the petitioner in case FIR No.265 dated 11.4.2023 under section 346 I.P.C (sections 302, 34, 120-B IPC and sections 25, 54, 59 of Arms Act were added later on) registered at Police Station, Indri, District Karnal.

As per factual matrix, the FIR in question was registered on the complaint of one Nirmala Devi wife of Ramesh Kumar, wherein it was alleged that on 10.4.2023 at about 4.30 PM her husband had gone to Indri for taking medicines but did not return. It was alleged that he had left the home on his motorcycle bearing registration no. HR07U-7109. She suspected that Bindu and Rinku residents of Gurugram were involved behind his missing. A request was made to take legal action against the culprits.

On the basis of the complaint, FIR in question was lodged initially under Section 346 IPC. Later on after the recovery of the dead body of the husband of complainant offence under section 302 IPC was added. During investigation complicity of the petitioner came to the surface

and thus he was also arrayed as an accused in this case. Apprehending the arrest, petitioner approached the court of learned Addl. Sessions Judge, Karnal for grant of bail, however, after hearing the parties, the same was declined vide order dated 25.4.2023. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that the petitioner has been falsely implicated in this case. He submits that petitioner has been neither named in the FIR nor any role was attributed to him. He submits that during investigation statements of PW Ankit and Subhash were recorded under Section 161 Cr.P.C and on the basis of the same co-accused Suraj @ Bintu was arrested on 12.4.2023. During interrogation of the co-accused Suraj @ Bintu petitioner and his mother Sushila Devi have been falsely implicated in this case. Counsel submits that the disclosure statement made by co-accused is not an admissible evidence as the same is hit by Section 27 of Evidence Act. He further submits that the investigating agency has falsely planted the weapon of offence i.e. sickle allegedly recovered from the co-accused Suraj @ Bintu and the same is irrelevant for proving the complicity of the petitioner in this case. He submits that no overt act has been attributed to the petitioner and thus in the facts and circumstances of the case petitioner deserves to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that there are specific allegations against the petitioner and if he is granted bail at this stage, the same may scuttle the ongoing investigation.

I have heard learned counsel for the parties at length and have gone through the records carefully.

From the allegations made in the FIR, it is apparent that the husband of the complainant left home on 10.4.2023 at about 4.30 PM and then went missing and thereafter the present FIR was lodged. During investigation police recovered the dead body of deceased Ramesh Kumar i.e. husband of the complainant. The investigating agency carried out the proceedings under Section 174 Cr.P.C and got conducted the postmortem examination of the deceased, wherein in all 19 injuries were found on the dead body and cause of death was opined to be shock and hemorrhage due to multiple injuries. Statements of Pws Ankit Kumar and Subhash were recorded under Section 161 Cr.P.C and thus offence under sections 302, 34, 120-B IPC were added in the FIR. It also surfaced during investigation that petitioner hit his vehicle in the motorcycle of the deceased and thereafter he hacked to death. It also surfaced during investigation that petitioner followed the deceased on his vehicle and then hit his vehicle in the motorcycle of the deceased when he reached at an isolated place. Thus, the complicity of the petitioner has come to light.

Hon'ble the Supreme Court in ***State represented by CBI Vs. Anil Sharma, (1997) 7 SCC 187*** has 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 ensconded with a favorable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disintering many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he 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 task of disinterring offences would not conduct themselves as offenders.”*

The Hon'ble Supreme Court, in **Gurbaksh Singh Sibbia Vs.**

**State of Punjab, AIR 1980 SC 1632** has held as under:-

*“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.*

In the above said case, the Hon'ble Supreme Court has held that the Court is to draw a balance between the right of liberty of the individual and overall interest of the society. However, overall interest of the society would prevail upon the right of liberty of the individual.

The Hon'ble Apex Court in plethora of judicial precedents has time and again reiterated that while considering the anticipatory bail the Court is to take into consideration the factors like gravity of offence, chances of accused tampering with the evidence and probabilities of fleeing from justice etc. The Court should be circumspect about the impact of its decision on the society as well. The anticipatory bail is an extraordinary discretion which can be exercised in the extraordinary circumstances. Weighing the facts and circumstances of the 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 and his custodial interrogation is necessary to reveal the truth.

Resultantly, the petition being devoid of any merit is hereby dismissed.

**(RAJESH BHARDWAJ)**  
**JUDGE**

**15.05.2023**

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Whether speaking/reasoned: Yes/No  
Whether Reportable: Yes/No