

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

CRM-M-27184 of 2023

Date of decision: 01.06.2023

Rafique Khan

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Chahit Bansal, Advocate, for the petitioner.
Mr. Adhiraj Singh, AAG, Punjab.

NAMIT KUMAR, J.

1. This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.140 dated 08.06.2022 under Sections 379, 411 IPC, registered at Police Station Sadar Mansa, District Mansa.

2. Present FIR was registered on the statement of complainant Gurjot Singh son of Narinderpal Singh resident of village Partap Singh Wala, District Ludhiana to the effect that on 08.06.2022 he had come to village Moosa to attend Bhog of Subhdeep Singh Moosewala. He parked his Maruti car bearing registration No. PB-10-BB-8913 in front of Haveli of Subhdeep Singh Moosewala. Motorcycle of Amanpreet Singh son of Rupinder Singh resident of Sanor, District Patiala, motorcycle bearing registration No. HR-22-L-9047 of Sonu Ram son of Balvir Singh resident of Fatehabad, motorcycle bearing registration No. PB-11-BD-1099 of Babli Singh son of Nikka Singh resident of Kallar Bhaini, District Patiala and motorcycle bearing registration No. PB65-9161 of Gurpreet Singh son of Budh Ram

resident of Sattemajra, District Mohali were also parked there. When, they returned back, they saw that above said vehicles were not there. Some unknown persons had stolen above said vehicles.

3. Learned counsel for the petitioner contended that the petitioner is innocent and has been falsely implicated in the present case as he has not committed any offence. He further submitted that petitioner has not been named in the FIR and has been nominated as an accused on the basis of disclosure statement of co-accused Vikas Kumar. He further submitted that co-accused of the petitioner, namely, Lakuwinder Singh has been granted anticipatory bail by the Court of learned Additional Chief Judicial Magistrate vide order dated 27.03.2023. He further submitted that nothing is to be recovered from the petitioner and he is ready and willing to join the investigation.

4. *Per contra*, learned State counsel has vehemently opposed the prayer of the petitioner seeking anticipatory bail by submitting that there are specific allegations against the petitioner, therefore, he is not entitled for grant of anticipatory bail. He is not having clean antecedents.

5. I have heard learned counsel for the parties and perused the record.

6. Petitioner has been specifically named by co-accused Vikas Kumar that he along with petitioner and one other person had stolen motorcycle bearing registration No.PB-31-U-2042. To know the name and whereabouts of other co-accused, custodial interrogation of the petitioner is necessary. Therefore, he is not entitled for grant of

anticipatory bail. Moreso, as per record, petitioner is/remained involved in seven more cases of IPC/NDPS Act.

7. As per law laid down by the Hon'ble Supreme Court in ***State of Madhya Pradesh v. Pradeep Sharma, (2014) 2 Supreme Court Cases 171***, power exercisable under Section 438 Cr.P.C. is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his/her liberty.

8. In ***Bal Krishan Fauzdar v. State of Haryana 2018 (1) RCR Criminal 789***, it is held by a Co-ordinate Bench of this Court in para No. 8 as under: -

“.....It is well settled that custodial interrogation is more elicitation oriented since a person, who is couched in comparative safety of pre-arrest bail would certainly not disclose all the facts within his knowledge which would be inculpatory for him. 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.”

9. In view of the above, present petition is dismissed.

10. Nothing stated heereinabove shall be construed as an expression of opinion on the merits of the case.

01.06.2023
R.S.

(NAMIT KUMAR)
JUDGE

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