

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

CRM-M-42213-2023

Date of decision : 25.08.2023

JASBIR SINGH @ KALA @ JASVEER SINGH

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Suvir Sidhu, Advocate and
Mr. Sukhcharan Singh, Advocate for the petitioner.

PANKAJ JAIN, J. (ORAL)

Apprehending his arrest in FIR No.301 dated 25.07.2023, registered for offences punishable under Sections 186, 307, 332, 353, 427 of the Indian Penal Code, 1860 at Police Station Sadar Dabwali, District Sirsa, the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

2. Contents of the FIR read as under :-

“On today dated 25.07.2023 I SI was present in ANC Sirsa when special informer came and told that Jasvir Singh @Kala son of Bhag Singh caste Jat Sikh resident of Village Malakpura does the business of heroin. Previously also cases of heroin have been registered against him and today Jasvir Singh @Kala by taking along heroin travelling in his car mark Creta bearing registration number HR-94-1380 colour white will be going to Dabwali area to supply heroin. If barricading is done then he could be overpowered along with heroin in his car on the spot. I SI by preparing notice U/s 42 NDPS Act and by affixing signatures and by getting - registered in daily diary was send in the hands of Constable Sandeep Kumar No.860 ANC Sirsa in the

service of officials. I SI along with ESI/HC Harjit Singh No.870/Sirsa, Constable Gurpreet Singh No.1165/Sirsa all colleagues in uniform traveling in private car mark Maruti Breeza Vitara bearing registration number HR-22-N-3881 went to toll plaza Khuiyan Malkana and after waiting there for some time went to Sawant Khera and after reaching Sawant Khera waited at the T Point for sometime when at around 01:35PM car Creta colour white was seen coming and on coming near the registration number of the car was found out to be HR-94-1380 and Jasvir Singh @Kala was driving the car himself whom I know and identify beforehand. I SI along with colleagues signaled the Jasvir Singh @Kala aforesaid to stop the car then Jasvir Singh @Kala aforesaid by making a cut made his car ran on the Masitan Road. I SI contacted the Dabwali CIA In charge ASI Prem Kumar on him mobile number from my mobile number and asked him that heroin could be in car mark Creta bearing registration number HR-94-1380 colour white. I am following the car along with colleagues. Roundup this car after doing barricading and asked the Dabwali CIA In-charge ASI Prem Kumar to do barricading on the Elenabad Road in Dabwali Village. I SI chasing the car reached Maseeta Interesection on the Elenabad Dabwali Road then the driver of the car Jasvir Singh @Kala aforesaid made his car run towards Village Gauriwala. I SI contacted the ASI Anand Kumar on him mobile number from my mobile number and asked him that heroin could be in car mark Creta bearing registration number HR-94-1380 colour white. I am following the car along with colleagues. Roundup this car after doing barricading. Jasvir Singh @Kala aforesaid while making the aforesaid car Creta run reached near Gauriwala Intersection and on seeing the tight barricading done by the police party started turning the car back at a fast speed. I SI asked the driver Harjit Singh to get the car stopped then during this time Jasvir Singh @Kala aforesaid by reversing his car tried to kill us by hitting his car on the right side of our car mark Maruti Breeza Vitara bearing registration number HR-22-

N-3881 and overturning our car. Then Jasvir Singh @Kala aforesaid again tried to hit our car by reversing his car then Constable Gurpreet Singh came down from the car all of sudden and hit bricks on the Creta car of Jasvir Singh @Kala aforesaid then due to being hit by the bricks front mirror of the car got broken then Jasvir Singh @Kala aforesaid hit Constable Gurpreet Singh with his car and due to being hit Constable Gurpreet Singh fell down and Jasvir Singh @Kala aforesaid tried to kill him by jumping his car over him then I in order to save Constable Gurpreet Singh and in order to stop the Creta car of Jasvir Singh @Kala aforesaid fired a bullet from my pistol towards the back tyre of the left side of the car and if I would not have done this then Jasvir Singh @Kala aforesaid could have killed him by running his car over Constable Gurpreet Singh. Due to the fear of fire Jasvir Singh @Kala aforesaid ran away his car again towards Dabwali side. I SI along with help of colleagues followed the Creta car of Jasvir Singh @Kala aforesaid then Jasvir Singh @Kala aforesaid while going through the link road and through villages ran away from the spot. I SI with the help of colleagues tried to search Jasvir Singh @Kala aforesaid in Village Matdadu, Malakpura, Kingra, Jhooti Khera, Rampura, Bishnoiyan, Gauriwala but no clue of Jasvir Singh @Kala aforesaid could be found. I SI after searching Jasvir Singh @Kala aforesaid have reached Police Post Gauriwala travelling in car mark Maruti Breeza Vitara bearing registration number HR-22-N-3881. That Jasvir Singh @Kala aforesaid by not stopping the car, by attempting to run over police personnel with intention to kill him, by creating hindrance in official work and by damaging private car mark Maruti Breeza Vitara bearing registration number HR-22-N-3881 has committed offence U/s 186, 332, 353, 307, 427 IPC. So the complaint is being written and is being send in the hands of ESI/HC Harjit Singh No.870/Sirsa ANC Sirsa for getting a case registered. The case number be informed after being registered. Special reports of the case be send in the service of officials and ilaka magistrate

through e-mail. Another investigating officer be send to the spot for doing further investigation in the case. I SI am present on the a spot. At near Gauriwala Intersection Dabwali Road SD/- Data Ram SI Data Rama No.183/H I/C ANC Sisa dated 25.07.2023 at 07:30PM. Today in the police station on receiving the aforesaid complaint in the police station aforesaid case in regard to aforesaid offence was registered in the police station against the aforesaid accused person and copy of FIR and original complaint are being send in the hands of the personnel on the spot. For doing the further investigation in the case ASI Rajesh Kumar No.58/Sirsa of Police Post Gauriwala has been instructed on the phone to reach the spot. Special report of the case will be send by E-mail in the service of ilaka magistrate and officials.”

3. Counsel for the petitioner has eloquently argued that in fact it is a case of false implication and the same is evident from the fact that on the same day the petitioner was nominated and implicated in another FIR that too under the NDPS Act. He further refers to the antecedents of the complainants by referring to Annexure P-7 i.e. FIR No.0255, dated 30.07.2023, registered for the offences punishable under Sections 147, 148, 149, 302, 342, 365 IPC at Police Station Kalanwali, District Sirsa to submit that the complainants' antecedents are such that their version cannot be relied upon.

4. Ld. State Counsel Mr. Gaurav Bansal, DAG, Haryana, who appears on advance notice submits that the petitioner himself is a habitual offender having six more cases including three more cases under NDPS cases.

5. I have heard counsel for the parties and have gone through records of the case.

6. As per settled law petitioner is required to make out a case for relief under Section 438 Cr.P.C. In **Gurbaksh Singh Sibbia vs. State of Punjab, 1980 (2) SCC 565**, Apex Court has held that :-

“..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....”

(emphasis supplied)

7. Likewise while reiterating the law laid down in **Gurbaksh Singh Sibbia's case (supra)** Apex Court in **Sushila Aggarwal and others Vs. State (NCT of Delhi) and another, 2020 (5) SCC 1** held that :-

“(4) Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it.”

8. As per settled law (in C.B.I vs. Anil Sharma, 1997(7) SCC 187) there is a qualitative difference between custodial interrogation and questioning a person insulated by pre-arrest bail. Investigation at this nascent stage cannot be belayed.
9. In light of the afore-mentioned law, the contention raised by the counsel is misplaced. At the most, the petitioner may claim that subsequent FIR on the same day i.e. FIR No.156 is an act of vengeance but so far as Annexure P-1 is concerned, the same is admittedly prior in time. Likewise involvement of complainants in subsequent FIR i.e FIR No.0255 dated 30.07.2023 (Annexure P-7) does not in any way absolve the petitioner of the allegations levelled in the present FIR.
10. Keeping in view the serious allegation .levelled against the petitioner and the fact that the police officials were doing duty of law when they were allegedly tried to be run over by the petitioner, this Court does not find it to be a fit case for grant of pre-arrest bail.
11. Consequently, the instant petition is dismissed.

August 25, 2023
Dpr

(Pankaj Jain)
Judge

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