

103

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44836-2023
Date of decision: 11.09.2023

GURDHIAN SINGH

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Rajesh Duhan, Advocate for the petitioner.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in FIR No.95 dated 19.06.2023, under Sections 457, 380 and 411 of the IPC, registered at Police Station Passiana (Pasyana), Patiala, District Patiala, Punjab.

2. Learned counsel for the petitioner submitted that the petitioner has been falsely implicated in the present case and no recovery was effected from him and the other two co-accused, namely, Nasib Singh and Gurdhian Singh @ Dhaini have already been extended the benefit of regular bail by learned trial Court vide Annexure P-3 and Annexure P-4, respectively. He further submitted that since recovery was not effected from the petitioner but was effected from the other co-accused, the petitioner has been falsely implicated in the present case and therefore he may be considered for grant of anticipatory bail.

3. On the other hand, Mr. Ramdeep Partap Singh, Senior DAG, Punjab submitted that he has received an advance copy of the present petition

and has also sought instructions from the concerned police official. He further submitted that the petitioner has not come to this Court with clean hands and he has deliberately and actively concealed about the pendency of as many as five more cases against him out of which four cases are of similar nature of theft and one case is under the NDPS Act and the petitioner is a habitual offender, whereas while filing the present petition for grant of anticipatory bail, he has so stated in para No.10 of the petition that he is not involved in any other criminal case except the present case and he has further stated in para No.9 that neither he has been declared as proclaimed offender nor any proceeding regarding the same has ever been started against him. He further submitted that in such like situation, the petitioner cannot be considered for grant of anticipatory bail. He further submitted that as per the investigation, the petitioner was actively involved in the present offence of theft and he along with other co-accused had jointly committed the theft. He further submitted that considering the fact that the petitioner is a habitual offender, it is a fit case where the custodial interrogation of the petitioner is required for the purpose of qualitative investigation and for elicitation of truth and has therefore prayed for dismissal of the present petition.

4. I have heard the learned counsel for the parties.

5. The present is a petition where the petitioner is seeking grant of anticipatory bail. Although the allegations in the present case are pertaining to theft of Rs.35,000/- and as per the learned counsel for the petitioner, the recovery was made from the other co-accused, who have already been extended the benefit of regular bail by learned trial Court as aforesaid but this Court has

to consider the conduct of the petitioner as well while he has filed the present petition. In para No.10 of the petition, the petitioner has so stated that he is not involved in any other criminal case except the present case. Para No.10 of the petition is reproduced as under:-

“10. That as per instructions of the family members of the present petitioner, he has not involved in any other criminal case except the present case.”

6. The present petition is also supported by an affidavit of the petitioner, which is at page No.7 of the paper-book. As per the affidavit, he has so stated that the contents of accompanying bail application are true and correct to my knowledge and the said affidavit has been duly verified and attested by the Notary. Learned State counsel has submitted that the petitioner is rather involved in five more cases out of which four cases are of similar nature and one case under the NDPS Act and has given the details of the same. The details as provided by learned State counsel are as follows:-

Sr. No.	FIR Number	Dated	Under Sections
1.	81	05.07.2020	457 and 380 of the IPC
2.	66	13.02.2009	457 and 380 of the IPC
3.	57	12.10.2011	380, 457 and 411 of the IPC
4.	193	04.08.2021	380 and 457 of the IPC
5.	200	04.12.2020	20, 21, 61 85 of the NDPS Act

7. A person who comes to the Court must come with clean hands, whereas in the present case it is clear that the petitioner has tried to abuse the process of law by deliberately concealing the factum of existence of five more cases against him, out of which four cases are of similar nature of theft and one case under the NDPS Act. Since the present petition is accompanied by an

affidavit of the petitioner, ordinarily this Court ought to have proceeded against the petitioner for perjury but taking a lenient view, this Court is of the view that the petitioner should be burdened with costs for deliberately misleading this Court.

8. The submission made by learned Senior DAG, Punjab that considering the fact that the petitioner is a habitual offender, his custodial interrogation is required for qualitative investigation and for elicitation of truth carries weight particularly when the petitioner has actively concealed the other pending FIRs of similar nature against him.

9. Consequently, the present petition is hereby dismissed with Rs.25,000/- as costs, which shall be deposited by the petitioner before Chief Judicial Magistrate, Patiala within a period of four months from today. After the receipt of the aforesaid costs amount, Chief Judicial Magistrate, Patiala shall transmit the same to the District Legal Services Authority, Patiala. In case the costs are not deposited by the petitioner within the aforesaid period, then the same shall be recovered from the petitioner as arrears of land revenue in accordance with law.

10. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petition only.

11.09.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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