

104

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46345-2023
Date of decision: 15.09.2023

CHARANJIT SINGH AND ANOTHER

...Petitioners

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- None for the petitioners.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 438 read with Section 482 Cr.P.C. for grant of blanket anticipatory bail to the petitioners in any FIR registered at the instance of respondent No.6 and the petitioners seek issuance of directions to the official respondents No.2 to 5 to serve them a prior 7 days' notice in terms of Section 160 Cr.P.C. in case they are required to be arrested in any FIR.

2. The matter has been called thrice today but nobody has caused appearance on behalf of the petitioners. Therefore, this Court would proceed on the basis of pleadings made in the present petition and with the assistance of learned State counsel.

3. As per the pleadings in the present petition, there is some dispute of the petitioners with respondent No.6 and the petitioners are apprehending that respondent No.6 will get some FIR lodged against them and for that

purpose, as per the prayer, blanket anticipatory bail has been sought by the petitioners.

4. Such kind of prayer wherein blanket bail is being sought has been so discussed and observed by the Hon'ble Supreme Court to be not maintainable. A Constitutional Bench of the Hon'ble Supreme Court in **Gurbaksh Singh Sibbia etc. versus State of Punjab, 1980 SCC (2) 565** laid down the law pertaining to the prayer for grant of blanket/pre-arrest bail. The relevant portion is reproduced as under:-

“41. Apart from the fact that the very language of the statute compels this construction, there is an important principle involved in the insistence that facts, on the basis of which a direction under Section 438(1) is sought, must be clear and specific, not vague and general. It is only by the observance of that principle that a possible conflict between the right of an individual to his liberty and the right of the police to investigate into crimes reported to them can be avoided. A blanket order of anticipatory bail is bound to cause serious interference with both the right and the duty of the police in the matter of investigation because, regardless of what kind of offence is alleged to have been committed by the applicant and when, an order of bail which comprehends allegedly unlawful activity of any description whatsoever, will prevent the police from arresting the applicant even if he commits, say, a murder in the presence of the public. Such an order can then become a charter of lawlessness and a weapon to stifle prompt investigation into offences which could not possibly be predicated when the order was passed. Therefore, the court which grants anticipatory bail must take care to specify the offence or offences in respect of which

alone the order will be effective. The power should not be exercised in a vacuum.”

5. Thereafter, another Constitutional Bench of Hon'ble Supreme Court in *Sushila Aggarwal and others versus State (NCT of Delhi) and others, 2020 (5) SCC 1* has also dealt with this issue while reiterating what was held by the Hon'ble Supreme Court in *Gurbaksh Singh Sibbia's case (supra)* and observed that anticipatory bail should not be in the nature of a blanket bail. The relevant portion of the aforesaid judgment is reproduced as under:-

“92. This Court, in the light of the above discussion in the two judgments, and in the light of the answers to the reference, hereby clarifies that the following need to be kept in mind by courts, dealing with applications under Section 438, Cr.PC;

92.1. XXXXX

92.2. XXXXX

93.3. XXXXX

92.4. XXXXX

92.5. XXXXX

92.6. An order of anticipatory bail should not be “blanket” in the sense that it should not enable the accused to commit further offences and claim relief of indefinite protection from arrest. It should be confined to the offence or incident, for which apprehension of arrest is sought, in relation to a specific incident. It cannot operate in respect of a future incident that involves commission of an offence.”

6. The head note prayer which has been made by the petitioners in the present petition is also reproduced as under:-

First petition under section 438 read with section 482 Cr.P.C. prayer for blanket anticipatory bail in view of which issuance of directions to official respondents to serve a 7 days prior notice to the petitioner in terms of Section 160 Cr.P.C. in case he is required to be arrested in any FIR registered by police of Police Station NRI Ludhiana Rural, District Ludhiana, on the complaint given by the Respondent No.6 as petitioners have serious apprehension at the instance of respondent no.6 namely Navtej Singh without any reason, in the interest of justice.

And/or

This Hon'ble Court may direct respondent no.2 to 5, if the petitioners are required in any criminal case for any kind of investigation, the petitioners shall be sent seven days advance notice keeping in view of the provisions of Code of Criminal Procedure.

And/or

Any other order or direction which this Hon'ble Court may deem fit in facts and circumstances of the case may kindly be issued, in the interest of justice.

7. Mr. Harsimar Singh Sitta, DAG, Punjab has submitted that he has received an advance copy of the present petition and he has also sought instructions from the concerned police officials. He submitted that even otherwise also the petitioners are seeking 7 days prior notice in terms of Section 160 Cr.P.C. in case the petitioners are required to be arrested in any FIR by the police in future. He submitted, on instructions, that notice was issued to the petitioners on 04.08.2023 under Section 160 Cr.P.C. with a direction to appear on 19.08.2023 and rather the petitioners appeared on 11.08.2023 on their own volition but thereafter they did not bother to appear on 19.08.2023 and till date

they have not appeared. He further submitted that the prayer of the petitioners seeking advance notice of 7 days is complied with and therefore the present petition is otherwise also not maintainable.

8. Apart from the above, the petitioners have straightaway filed the present petition before this Court and have come to this Court seeking clear cut blanket bail and have not availed their alternate remedy before the learned Sessions Court. Therefore, this Court is of the view that the present petition is not only not maintainable but is also an abuse of process of law apart from being contrary to the law laid down by the two Constitution Benches of the Hon'ble Supreme Court as aforesaid.

9. Consequently, the present petition being devoid of any merit, is hereby dismissed.

15.09.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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