

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

CRM-M-47252-2023

Date of decision : 22.09.2023

VICKY BADAL

....Petitioner

Versus

STATE OF HARYANA

....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Jitender K. Sehrawat, Advocate
for the petitioner.

Mr. Gaurav Bansal, Dy. Advocate General, Haryana.

PANKAJ JAIN, J. (ORAL)

Apprehending his arrest in FIR No.245, dated 27.03.2023, registered for offences punishable under Sections 323, 34, 342, 506 of the Indian Penal Code, 1860 (Sections 325, 387 & 389 of IPC added later on) at Police Station Barwala, District Hisar, Haryana the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

2. As per the contents of the FIR it has been alleged as under :

“Statement of Gaurav son of Sh. Palvinder Singh, resident of ward No.1, Uklana, District Hisar, aged 25 years, stated that I am resident of above said address and doing the work of labour. From 15.03.2023 till 21.03.2023 I was doing the labour work with Vicky Badal Contractor, resident of Barwala, Vicky Badal told me that somebody has get transferred the money fraudulently from my family members. On 25.03.2023 Vicky Badal called me in his house through phone, at about 11 O'clock in the morning I reached house of Vicky Badal at Barana on asking of Vicky Badal. Vicky

Badal taken to me house of another person. 10/12 persons were there. Out of which one sister-in-law (Bhabhi) of Vicky Badal and mother of Vicky Badal were present. Boys who were came with Vicky Badal, after taking my thumb impression on computer and check my bank account and thereafter, Vicky Badal and other boys tied my hands and feet and I was beaten badly. I was hit by punches at my face and nose, I was beating with stick after tied my foot. Vicky Badal was saying that you had cheated our money, until you tell the truth, you will continue to be beaten like this. Tell the truth otherwise kill you. I was kept hostage till evening. When Vicky Badal alongwith his friends in the evening tied my mouth and eyes and took me in the fields in a vehicle, where all these open my eyes bandage and reversely hanged me in the Well. They were repeatedly calling my family members to talk to me and Vicky Badal himself was talking to my family members and saying that they should bring me one lakh thirty five thousand rupees, otherwise I will torment him like this for next 2 hours. Kept taking me around in the car and dropped me at the CIA police Station in the evening of 25.03.2023, thereafter, police taken to me at Police Chowki Barwala. Where police called my brother after taking information from me. Today I have recorded my statement to you. All these has beaten me without any reason. I can identify if they came in front of me. Sons of 'Tau' and 'Chacha' of Vicky Badal were with him. statement recorded, heard and is correct. Hansraj @ Hansu resident of Uklana, is also son of uncle of Vicky Badal. He also gave beatings me and made video. Sd/- Gaurav. Attested Ram Niwas ASI P.S. Barwala. Dt.27.03.2023."

3. Counsel for the petitioner submits that there is unexplained delay of three days in registering the FIR and even the Medico Legal Report is the of next day.
4. Mr. Gaurav Bansal, DAG, Haryana, Ld. State Counsel who appears on advance notice submits that it is a case wherein the victim was restrained and not allowed to move out by the petitioner for the whole day.

The victim has suffered a nasal fracture and whole of the incident as to how the victim was tortured and was hanged in the Well with hand and feet tied has been videographed by one of the co-accused. Thus, it will not be a case for grant of extraordinary relief of pre-arrest bail.

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 invoking jurisdiction 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. This Court finds that the petitioner acted as a feudal lord who was living in his own fiefdom and resorted to inhuman treatment to the victim taking law into his hands. Resultantly, this Court does not find it to be a fit case for grant of pre-arrest of anticipatory bail to the petitioner.

9. Accordingly, the petition is dismissed.

September 22, 2023	(Pankaj Jain)
Dpr	Judge
Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No