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

CRM-M-53974-2022 (O&M)
Date of Decision: 08.05.2023

SIMRANPAL SINGH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Ankit Kharbanda, Advocate
for the petitioner.

Mr. H.S. Sidhu, A.A.G., Punjab.

HARSH BUNGER, J. (ORAL)

CRM-17304-2023

This is an application for placing on record the 'Amended Memo of Parties' and copy of 'Aadhar Card' of the petitioner as Annexure P-5.

For the reasons mentioned in the application, the same is allowed and Annexure P-5 is taken on record, subject to all just exceptions.

CRM-M-53974-2022

Petitioner has filed this petition under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.134, dated 19.04.2022 registered under Sections 323, 325 and 452 read with Section 34 of Indian Penal Code (in short "IPC") at Police Station Division B, Amritsar.

2. Briefly, the afore-stated FIR was registered on the complaint of Maninderjit Singh son of Surinder Singh, who alleged that on dated 23.03.2022, he was with his family when their neighbor Karanpal Singh

son of Tarlok Singh resident of House No.1111, New Shaheed Udham Singh Nagar, Amritsar, went after parking his Activa (two wheeler) in front of their house and his mother told Karanpal not to park his Activa; however Karanpal Singh in order to fight with his mother came in front of their house and the complainant went with him to drop him at his house. Then after some time, he again came and started manhandling complainant's father Surinder Singh, whereupon, the entire family tried to stop him and he was pulled inside and after sometime his (Karanpal's) younger brother Simranpal Singh armed with *datar* in his hand and his elder brother Jaspreet Singh armed with *iron punch* came at their house when Jaspreet Singh raised a *lalkara* to teach them a lesson for not allowing them to park the Activa and then he (Jaspreet) gave iron punch blow on the left side of complainant's head. Thereafter, Simranpal Singh gave blow from opposite side of his *datar* which hit upon the face of the complainant and two teeth of his lower jaw were broken. Second blow was given by Simranpal with his *datar* which hit left eye of complainant and blood started oozing out. Then 3-4 unknown persons, who were accompanying them, started manhandling complainant and inflicted injuries on complainant's head and hand. When complainant shouted '*Maar Ditta Maar Ditta*', then on seeing people gathering, they all fled away from the spot with their respective weapons. It is stated that the respectable persons tried to get the matter settled between the parties, which could not be effected. Accordingly, the abovesaid case FIR was registered.

3. Apprehending his arrest in this case, the petitioner approached the Court of Additional District and Sessions Judge, Amritsar seeking grant of pre-arrest bail by filing an application; however, the same was declined by the learned Additional Sessions Judge, Amritsar, vide order dated

01.09.2022. Accordingly, the petitioner has filed this petition under Section 438 Cr.P.C. seeking anticipatory bail.

4. Learned counsel for the petitioner has contended that the petitioner is innocent and has been falsely implicated in the present case on account of pre-existing personal enmity between the petitioner side and complainant side.. It is submitted that there is an unexplained delay of one month from date of incident. It is stated that the alleged occurrence never happened and it was only a minor scuffle between the petitioner side and complainant side on the issue of parking of Aactiva in front of house of complainant wherein both sides suffered minor injuries. It is submitted that the petitioner and Jaspreet Singh had entered the house of complainant only to save their brother Karanpal from the clutches of complainant party. It is further submitted that co-accused Jaspreet Singh has already been granted anticipatory bail by this Court. It is stated that the petitioner is ready to join the investigation and to comply with other conditions as may be imposed by this Court or by the trial Court. Accordingly, prayer for grant of anticipatory bail has been made.

5. Per contra, learned State counsel has opposed the prayer for grant of anticipatory bail to the petitioner on account of seriousness and gravity of offence. It is submitted that the petitioner is specifically named in the FIR and he alongwith other co-accused had assaulted the complainant. The petitioner is alleged to have inflicted injuries from opposite side of his *datar* upon the face of the complainant whereupon complainant's two teeth of lower jaw were broken and a second blow was given by petitioner with his *datar* on left eye of complainant and blood started oozing out. Learned State counsel stated that the petitioner played active role in commission of crime. It is also submitted that the custodial interrogation of the petitioner is

required for complete investigation of this case and accordingly, prayer for dismissal of the petition has been made.

6. I have heard learned counsel for the parties and also gone through the paper book with their able assistance.

7. Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. In ***P. Chidambaram v. Directorate of Enforcement (SC) : 2019(4) RCR (Criminal) 875***, Hon'ble Supreme Court observed as under :-

"67. Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. Power under Section 438 Cr.P.C., 1973 is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy.

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70. We are conscious of the fact that the legislative intent behind the introduction of Section 438 Cr.P.C., 1973 is to safeguard the individual's personal liberty and to protect him from the possibility of being humiliated and from being subjected to unnecessary

police custody. However, the court must also keep in view that a criminal offence is not just an offence against an individual, rather the larger societal interest is at stake. Therefore, a delicate balance is required to be established between the two rights - safeguarding the personal liberty of an individual and the societal interest. It cannot be said that refusal to grant anticipatory bail would amount to denial of the rights conferred upon the appellant under Article 21 of the Constitution of India.

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*72. Ordinarily, arrest is a part of the process of the investigation intended to secure several purposes. There may be circumstances in which the accused may provide information leading to discovery of material facts and relevant information. Grant of anticipatory bail may hamper the investigation. Pre-arrest bail is to strike a balance between the individual's right to personal freedom and the right of the investigating agency to interrogate the accused as to the material so far collected and to collect more information which may lead to recovery of relevant information. In State Rep. by The **CBI v. Anil Sharma (1997) 7 SCC 187**, the Supreme Court held as under:-*

"6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is

interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders."

73. Observing that the arrest is a part of the investigation intended to secure several purposes, in ***Adri Dharan Das v. State of W.B. (2005) 4 SCC 303***, it was held as under:-

"19. Ordinarily, arrest is a part of the process of investigation intended to secure several purposes. The accused may have to be questioned in detail regarding various facets of motive, preparation, commission and aftermath of the crime and the connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to discovery of material facts. It may be necessary to curtail his freedom in order to enable the investigation to proceed without hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his disappearance, to maintain law and order in the locality. For these or other reasons, arrest may become an inevitable part of the process of investigation. The legality of the proposed arrest cannot be gone into in an application under Section 438 of the Code. The role of the investigator is well defined and the jurisdictional scope of interference by the court in

the process of investigation is limited. The court ordinarily will not interfere with the investigation of a crime or with the arrest of the accused in a cognizable offence. An interim order restraining arrest, if passed while dealing with an application under Section 438 of the Code will amount to interference in the investigation, which cannot, at any rate, be done under Section 438 of the Code.

*75. After referring to Siddharam Satlingappa Mhetre and other judgments and observing that anticipatory bail can be granted only in exceptional circumstances, in **Jai Prakash Singh v. State of Bihar and another (2012) 4 SCC 379**, the Supreme Court held as under:-*

*"19. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroled in the crime and would not misuse his liberty. (See **D.K. Ganesh Babu v. P.T. Manokaran (2007) 4 SCC 434**, **State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain (2008) 1 SCC 213** and **Union of India v. Padam Narain Aggarwal (2008) 13 SCC 305.**)"*

8. When the case of the petitioner is considered in view of the afore-stated legal position, it would manifest that the petitioner has been specifically named in the FIR and specific injuries have been attributed to him. Petitioner is alleged to have given injury with a *datar* to the complainant which hit on the face and eye of complainant and his two teeth

were broken. Thus, the petitioner is alleged to have caused grievous hurt to complainant.

9. As regards the contention of the petitioner that there is unexplained delay in the lodging of F.I.R., it is found that in the F.I.R., the complainant has stated that the respectable persons tried to get the matter settled between the parties, which could not be effected. Infact, from a perusal of the petition as well as from the video recording produced by petitioner, it would manifest that occurrence did take place, which as per the petitioner was a minor scuffle. From the video recording produced by petitioner, it is seen that the police official(s) were present at the spot. Be that as it may, the delay in lodging the FIR cannot be pre-judged at this stage.

10. As regards the contention of the learned counsel for the petitioner that co-accused (Jaspreet Singh) has been granted anticipatory bail; suffice it to say that the case of the petitioner is on a different footing as that of the case of co-accused Jaspreet Singh. Petitioner is alleged to have caused grievous hurt with a *datar* on the face and eye of complainant whereupon two teeth of complainant were broken.

11. In my considered view, the petitioner is to be questioned in detail regarding various facets of the crime and his custodial interrogation is definitely required for complete and effective investigation. Custodial interrogation of the petitioner may provide information leading to discovery of material facts. 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.

12. Keeping in view the above discussion, the petitioner in the

present case is not entitled for grant of anticipatory bail as no exceptional circumstance has been brought forth in that regard. Accordingly, the present petition under Section 438 Cr.P.C. seeking grant of anticipatory bail to the petitioner in case FIR No. 134, dated 19.04.2022, registered under Sections 323, 325 and 452 read with Section 34 of the IPC, at Police Station Division B, Amritsar, is dismissed.

13. Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

14. All pending application/s (if any) shall stand closed.

May 8th, 2023
gurpreet

(HARSH BUNGER)
JUDGE

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