

CRM-M-52938-2023

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(211)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-52938-2023

Date of decision :13.12.2023

RANJODH SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Amit Arora, Advocate
for the petitioner.

Ms. Ramta K Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 438 of Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No.73 dated 07.05.2023 registered under Sections 307, 34 IPC, 1860 and Sections 25 and 27 of Arms Act, 1959 at Police Station Sirhali, District Tarn Taran.

2. The present FIR came to be registered at the instance of Maninder Singh son of Jagtar Singh who stated that while Tarsem Singh raised a Lalkara, the petitioner-Ranjodh Singh took out a pistol and with an intention to kill them (complainant party) fired a shot. They (complainant party) immediately sat down. On raising a hue and cry, the accused persons fled away from the spot with their weapons.

3. The learned counsel for the petitioner contends that the father of the petitioner is the Sarpanch of the Village and one complaint had been submitted to the BDPO regarding the illegal dismantling of drainage pipes of the village on the basis of which an FIR No.151 dated

17.10.2021 under Sections 432, 427, 278 IPC, 1860 and Sections 2, 3 of Prevention of Damage to Public Property Act, 1984 had been registered against the present complainant-Maninder Singh. The said Maninder Singh had inflicted injuries on the person of Jarmanjit Singh, a close relative of the petitioner regarding which an FIR No.163 dated 21.11.2021 under Sections 323, 326, 355, 427, 452, 506, 148, 149 IPC Police Station Sirhali, District Tarn Taran came to be registered against Maninder Singh and others. The present FIR had been registered as a counter-blast to the aforementioned FIRs. Taking the allegations to be true, it was a case where no injury had been caused. Even otherwise, the licenced weapon of the petitioner had been deposited with P.S. Sirhali, District Tarn Taran. He, therefore, contends that the petitioner was entitled to the concession of anticipatory bail.

4. On the other hand, the learned State counsel while referring to the reply dated 24.11.2023, contends that during the course of investigation, 02 cartridges of .32 bore were recovered from the spot. As the contention of the petitioner was that his licenced weapon had been deposited with the Police Station, his custodial interrogation was certainly necessary in order to recover the weapon used in the present occurrence. Even otherwise, the petitioner was a habitual offender with three other cases registered against him wherein, in two cases he had been acquitted and in one case under Section 307 IPC, the Trial was underway. As serious allegations had been levelled against the petitioner of having fired upon the complainant and his brother Balwinder Singh in

order to kill them, his custodial interrogation was certainly required not only to effect the recovery but also as a *prima facie* case was made out.

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

6. The Hon'ble Supreme Court in the case of ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr.*** 2022 Live Law (SC) 870 held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the *prima facie* case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

“It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

*We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. **In many anticipatory bail matters, we have noticed***

one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.

7. In the present case, two empty cartridges of .32 bore were recovered from the spot which *prima facie* establishes the veracity of the prosecution case against the petitioner. It is the case of the petitioner that his weapon stood deposited with Police Station Sirhali, District Tarn Taran. Therefore, in order to recover the weapon used in the occurrence, his custodial interrogation is certainly necessary.

8. In view of the aforementioned discussion, I find no merit in the present petition. Therefore, the same stands dismissed.

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9. However, the observations made hereinabove are only for the purposes of deciding this bail petition and the Trial Court is free to adjudicate upon the matter on the basis of the evidence led before it uninfluenced by any such observations made herein.

(JASJIT SINGH BEDI)
JUDGE

13.12.2023
JITESH