

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(103)

CRM-M-61183-2022(O&M)

Date of Decision: 10.01.2023

Rangpal Singh @ Rangi & another

--Petitioners

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Ms. Riffi Bala, Advocate for the petitioners.

Mr. P.S. Grewal, D.A.G., Punjab.

RAJESH BHARDWAJ.J (Oral)

CRM-894-2023

Application is allowed as prayed for.

Amended petition is taken on record.

Main Petition

The present petition has been filed under Section 438 Cr.P.C seeking the benefit of anticipatory bail to the petitioners in case FIR No.137 dated 22.11.2022 under sections 452, 324, 34 I.P.C, registered at Police Station, Khuian Sarwar, District Fazilka.

As per factual matrix, the FIR in question was registered on the statement of the complainant Angrej Singh, wherein it was alleged that on 20.11.2022 at about 7.30 PM when he came back to his house after getting free from his work, his wife was cooking food. In the meanwhile, Chhinderpal Singh @ Chhindi, Gurwinder Singh @ Gindi, Rangpal Singh @ Rangi sons of Gurnam Singh and Kakkan Singh son of Vanjar Singh came there and started hurling abuses. When he went outside he found

them duly armed with baseball bats. Gurwinder Singh @ Gindi asked to catch hold of him and then they started beating him. He and his wife raised alarm and all the assailants ran away with their weapons on their motorcycles. He was admitted in the Civil Hospital, Abohar and was medically treated. A request was made to take legal action against the culprits.

Apprehending the arrest, petitioners approached the court of learned Sessions Judge, Fazilka for grant of bail, however, after hearing the parties, the same was declined vide order dated 6.12.2022. Aggrieved by the same petitioners have approached this court for grant of bail.

Learned counsel for the petitioners vehemently contends that petitioners have been falsely implicated in the present case. She submits that the alleged occurrence took place on 20.11.2022, whereas the FIR was lodged on 22.11.2022 and the delay occurred is totally unexplained. She further submits that no injury has been attributed to the petitioners. She submits that the petitioners are being prosecuted for the offence of tress passing which is totally false and frivolous. It is submitted that the ocular version of the complainant is not even medically corroborated. It is also submitted that in the amended petition antecedents of the petitioners have been given. She submits that in the overall facts and circumstances of the case, petitioners deserves to be enlarged on bail.

On the other hand, learned State counsel has opposed the submissions made by counsel for the petitioners. He submits that there are specific allegations against the petitionerS and if they are granted bail at this stage, the same may scuttle the ongoing investigation.

I have heard learned counsel for the petitioners at length and have gone through the records carefully.

The specific case of the prosecution is that the petitioners came on motorcycles duly armed with baseball bats. They started abusing the complainant and thereafter he was beaten. The details of the antecedents of both the petitioners have been given by learned counsel for the petitioners in para 8 of the amended petition, which has been placed on record today. The details reveal that there are as many as 5 other FIRs registered against both the petitioners details whereof have been furnished in the petition.

Evidently, both the petitioners are facing prosecution under sections 452 IPC along with other sections, however, for the consideration of the anticipatory bail the antecedents of the petitioners along with the attending circumstances cannot be ignored. Both the petitioners are involved in as many as 5 FIRs.

Hon'ble the Supreme Court in ***State represented by CBI Vs. Anil Sharma, (1997) 7 SCC 187*** has 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 ensconded with a favorable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he 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

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be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disinterring offences would not conduct themselves as offenders.”

The Hon'ble Supreme Court, in **Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632** has held as under:-

*“31. In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. 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. The relevance of these considerations was pointed out in **State v. Captain Jagjit Singh (1962) 3 SCR 622**, which, though, was a case under the old Section 498 which corresponds to the present Section 439*

of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.

In the above said case, the Hon'ble Supreme Court has held that the Court is to draw a balance between the right of liberty of the individual and overall interest of the society. However, overall interest of the society would prevail upon the right of liberty of the individual.

The Hon'ble Apex Court in plethora of judicial precedents has time and again reiterated that while considering the anticipatory bail the Court is to take into consideration the factors like gravity of offence, chances of accused tampering with the evidence and probabilities of fleeing from justice etc. The Court should be circumspect about the impact of its decision on the society as well. The anticipatory bail is an extraordinary discretion which can be exercised in the extraordinary circumstances. Weighing the facts and circumstances of the case on the anvil of law settled, this Court is of the opinion that the petitioners do not qualify for exercising the extraordinary power by this Court in their favour.

Resultantly, the petition being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

10.01.2023

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No