



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-28933-2024 in/&
CRM-M-8245-2024 (O&M)

Date of decision: 24.07.2024

Ravinder Kumar @ Manga

...Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Gurbhagat Singh Gill, Advocate
for the applicant-petitioner.
Mr. Anup Singh AAG Punjab.
Dr. Sumati Jund, Advocate for respondent No.2.

SUMEET GOEL, J. (Oral)

CRM-28933-2024

This is an application under Section 482 of Cr.P.C. seeking addition of offence under Section 379-B of IPC in the headnote and prayer clause of the instant petition as the same has been added later on vide DDR No.54 dated 03.08.2023 registered at Police Station Kotwali, District Bathinda.

Application is allowed as prayed for, subject to all just exceptions. Registry to carry out the necessary correction in the headnote and prayer clause of the instant petition.

CRM-M-8245-2024

1. Present petition has been filed on behalf of the petitioner seeking grant of anticipatory/pre-arrest bail under Sections 438 of Code of Criminal Procedure, 1973 in FIR No.59 dated 04.04.2023 registered for offences punishable under Sections 384, 354-D, 341, 506, 34 of IPC and Section 379-B of IPC and Section 67 of Information and Technology Act,



2. The case set up in the FIR in question (as set out in the present petition by the petitioner(s)) is as follows:-

“Copy of statement, Statement of Mrs. Chetna Rani wife of late. Sukhdev Arora, resident of Gali No. 3, near Durga Temple, Bhatti Road Bathinda, age about 38 Years, MO: No: 62839-96632, stated that I am a resident of the above address. My husband died due to illness on 24-06-2022, I have 03 girls, for last 3-1/2 years I was working in ECG Department at Dr. Mohan Lal Garg Hospital Mall Road Bathinda and at evening for about 01 year was working as accountant at Gagan Medical Store Bathinda in front of Dr. Mohanlal Garg Hospital Bathinda, owned by Ajay Jindal resident of Nirvana Estate Bathinda. I used to come to my duty on my Activa number PB 03AX-3444. Next to this medical store is a tea stall. The owner of the tea stall is Manish Garg @ Kala son of Hans Raj resident of Street No. 05, Paras Ram Nagar Bathinda, mostly vagabond kind people come at this tea stall. We used to close the shutters of Gagan Medical Store while doing account work and calculating the money. On 02-03-2023 as usual I went to Gagan Medical Store and lowered the shutter of the shop while doing account work. When I finished my work and was leaving to home at around 10:00 pm, then one boy made a video of me while leaving the medical store through his mobile phone and followed me on a motorcycle along with another boy and were doing wrong gestures to me. Regarding whom I investigated on my own, from Investigation it revealed that the boy who made my video through mobile phone is Ravinder Kumar @Manga son of Sohan Lal resident of Gali No. 10/2 Guru Gobind Singh Nagar, Bathinda and the name of the boy accompanying him who followed me is Amandeep Singh son of Avtar Singh resident of Sivian, district Bathinda. On 10-03-2023, Amandeep Singh sent me the video which was made while leaving medical store on my mobile number 62839-96632 from his mobile number 83607-47410. When as usual I came to Gagan Medical Store Bathinda, Manish Garg @ Kala stopped me outside the medical store and said that madam, you have seen the video that Amandeep had sent, in the meantime Amandeep Singh and Ravinder Kumar @ Manga also came. Seeing them, I started walking towards the medical store, then these three surrounded me and asked me with a mischievous tone that you have seen the video, I replied yes, I have seen it. For what purpose have you sent me this video. You have done it wrong, I will make complaint against you, then these three started saying to me that nothing has happened yet. We will defame you by sharing your video in groups. If you complain to the police, the consequences will be worse.



Meanwhile, Manish Garg @ Kala, to whom these boys used to come, started telling me that they are having relations with a bad type of man. If you want to get rid of them, then get rid of them by giving them money or else they will continue to harass you. Because Manish Garg @ Kala was well aware of my brain attack disease that she will give money out of fear. I did not speak to anyone, fearing my disgrace and the future of the child, so they took advantage of my silence, surrounded me, made wrong gestures, put pressure on me in the guise of that video and also started demanding money. Amandeep Singh and Ravinder Kumar @ Manga started following me on a motorcycle and I fearing my disgrace and the future of the child gave about Rs.01 lac 25 thousand cash on different dates of last month and had given Rs.25000/- through Google Pay on the mobile number 98779-16116 of Amandeep Singh. Now, Amandeep Singh, Ravinder Kumar @ Manga and Manish Garg @ Kala, all three of them block my way, surround me, abuse me and are threatening me to make the video viral and to kill me and my children. Because of which I had to quit my job. They have taken one and a half lakh rupees from me before and now they are demanding one lakh rupees from me. I was coming to the police station to report, you have met. I have recorded my statement, read it heard it and is correct. Legal action be taken. SD/- Chetna Rani, Attested SD/- Parminder Singh INSP Chief Officer Police Station Kotwali, Bathinda, dated 04.04.2023.”

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case as there is no evidence on record that he ever stalked the complainant or made any video of the complainant. Learned counsel further submits that the mobile from which the alleged video was sent on the mobile of the complainant does not belong to the petitioner. According to him, a false and concocted story has been fabricated in order to extort money from the petitioner and an attempt has been made to falsely implicate him. Moreover, there is nothing on record to show that the complainant has paid any money to the petitioner as alleged. Learned counsel has further submitted that there is an inordinate and unexplained delay of 01 month in lodging the instant FIR. It is further



submitted that there is no need for custodial interrogation of the petitioner, as nothing incriminating remains to be recovered from him. Moreover, there is no likelihood of the petitioner absconding from the process of justice in case he is enlarged on pre-arrest bail.

4. Learned counsel appearing for the State has opposed the grant of pre-arrest bail by arguing that the allegations against the petitioner are serious in nature as the petitioner, in connivance with co-accused, is alleged to have made the video of the victim-complainant and thereafter threatened her and extorted money to the tune of Rs.1,50,000/-. Moreover, the petitioner is a habitual offender as he is involved in four other cases, though acquitted in two cases.

5. Learned counsel for the complainant has strenuously opposed the grant of anticipatory bail to the petitioner. He submits that the petitioner is involved in a serious offence and the prosecution has gathered sufficient evidence against him. According to her, the custodial interrogation is required to recover the mobile used in the commission of crime as also the money extorted by him.

5. I have heard the learned counsel for the parties and have gone through the available records of the case.

6. It would be apposite to refer herein to a judgment of the Hon'ble Supreme Court titled as ***Kishor Vishwasrao Patil vs. Deepak Yashwant Patil and another*** passed in ***SLP(Crl) No.1125-2022***, relevant whereof reads as under:

“74. 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 v. Anil Sharma [State v. Anil Sharma, (1997) 7 SCC 187 : 1997 SCC (Cri) 1039]**, the Supreme Court held as under : (SCC p. 189, para 6)*

“6. We find force in the submission of 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.

*75. Observing that the arrest is a part of the investigation intended to secure several purposes, in **Adri Dharan Das v. State of W.B. [Adri Dharan Das v. State of W.B., (2005) 4 SCC 303 : 2005 SCC (Cri) 933]**, it was held as under : (SCC p. 313, para 19)*

“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.”

76. In ***Siddharam Satlingappa Mhetre v. State of Maharashtra*** [***Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694 : (2011) 1 SCC (Cri) 514***], the Supreme Court laid down the factors and parameters to be considered while dealing with anticipatory bail. It was held that the nature and the gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made and that the court must evaluate the available material against the accused very carefully. It was also held that the court should also consider whether the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.

77. After referring to ***Siddharam Satlingappa Mhetre*** [***Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694 : (2011) 1 SCC (Cri) 514***] and other judgments and observing that anticipatory bail can be granted only in exceptional circumstances, in ***Jai Prakash Singh v. State of Bihar*** [***Jai Prakash Singh v. State of Bihar, (2012) 4 SCC 379 : (2012) 2 SCC (Cri) 468***], the Supreme Court held as under : (SCC p. 386, para 19)

“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*** [***D.K. Ganesh Babu v. P.T. Manokaran, (2007) 4 SCC 434 : (2007) 2 SCC (Cri) 345***], ***State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain*** [***State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain, (2008) 1 SCC 213 : (2008) 1 SCC (Cri) 176***] and ***Union of India v. Padam Narain Aggarwal*** [***Union of India v. Padam Narain Aggarwal, (2008) 13 SCC 305 : (2009) 1 SCC (Cri) 1***].)”

Economic offences

78. Power under Section 438 CrPC being an extraordinary remedy, has to be exercised sparingly; more so, in cases of economic offences. Economic offences stand as a different class as they affect the economic fabric of the society. In ***Directorate of Enforcement v. Ashok Kumar Jain***



[Directorate of Enforcement v. Ashok Kumar Jain, (1998) 2 SCC 105 : 1998 SCC (Cri) 510], it was held that in economic offences, the accused is not entitled to anticipatory bail.”

15. In **Sushila Agrawal and others v. State (NCT of Delhi) and Another reported in (2020) 5 SCC 1**, Constitution Bench of this Court held that while considering an application for grant of pre-arrest bail the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence or likelihood of fleeing justice. The Court held:-

“92.4. 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. Whether to grant or not is a matter of discretion; equally whether and if so, what kind of special conditions are to be imposed (or not imposed) are dependent on facts of the case, and subject to the discretion of the court.”

7. Indubitably, serious allegations have been levelled against the petitioner in the FIR. The petitioner is alleged to have stalked the victim, followed her persistently alongwith co-accused and, also made the video of the complainant on his mobile phone while she was coming out of the shop. Furthermore, the petitioner is alleged to have threatened the complainant to defame her by sharing the alleged video in different whatsapp groups and extorted a sum of Rs.1,50,000/-. Moreover, the stand of the investigating agency is that the mobile phone used in the commission of crime on which the original video was made is yet to be recovered from the accused. The egregious nature and compelling gravity of offence, as also the role attributed to the petitioner leads to an unequivocal conclusion that the petitioner does not deserve the concession of anticipatory bail. While considering the bail, the Court ought to reckon with the magnitude and nature of the offence; the role attributed to the accused; the need for fair and



iniquities on the society. The relief of anticipatory bail must not unduly hamper the rights of the investigating agency to conduct free, fair and impartial investigation.

In view of severity of allegations leveled against the petitioner, it may not be possible for the investigating agency to unravel the entire truth as also to recover the mobile alleged to have been used by the petitioner, in case petitioner is armed with a protective order.

8. As an upshot of the above discussion, the instant petition deserves to be dismissed.

Ordered accordingly.

9. Nothing said hereinabove shall be deemed to be an expression of opinion upon merits of the case/investigation.

10. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

July 24, 2024
Ajay

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