

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-8370-2024

Date of Decision:-02.04.2024

Angad.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. A.K. Ranolia, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, Assistant Advocate General,
Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The prayer in this petition under Section 438 Cr.PC is for the grant of anticipatory bail in case FIR No.154 dated 20.08.2023 under Sections 34, 379-B and 506 IPC (Section 323 IPC added later on) registered at Police Station Tigaon, District Faridabad, Haryana.

2. The present FIR came to be registered at the instance of Hariom which reads as under:-

“ To, the SHO, Police Station: Tigaon, Sir, It is submitted that I, Hariom son of Sh. Roshan, Resident of Fajarpur, Police Station: Girauh, District-Mainpuri, U.P., presently residing at Sabband Liquor Shop, Village-Chirsi. I, Manoj, resident of Village Mandhawali, I have been working as a salesman at Liquor Shop at Village-Chirsi for about two months. On 18.08.23, I was present at my above mentioned Liquor Shop, during this time at around 09:30 PM, Angad son of son of Ranjeet and Babu @ Sumit son of Ratan, resident of Village-Chirsi came to me and Angad asked me to give him a cold

beer. I told him that the beer is not cold. Angad said to take out the beer and show it, which I took out the beer from the fridge and gave it to Angad. Angad told me that this beer is hot, put it back. When I started putting the beer back in the fridge, Angad's friend Babu held my neck from behind and hit me on the head at several places with a brick and Babu kicked me, hit me with punches and Babu and Angad pushed me and made me fall down and Angad kept Rs. 10,500 from sale of liquor in the chest box, Babu kept it near the box and picked up my mobile phone. Babu and Angad took the above money and my mobile phone and ran away from the spot. Who threatened me while leaving that if I reported anywhere, they would kill me. Angad and Babu had a TVS motorcycle at that time. Thereafter I informed Manoj about this incident to Manoj through phone, then who took me for treatment at Govt. Hospital Ballabgarh. Where doctor treated me and cut my MLR and referred me to BK Faridabad Hospital, I got CT Scan of my injury done at Manavta Hospital Ballabgarh, till now I kept getting my injury treated, now I am come for the report. Legal action be taken against the Angad and Babu. Sd/- Hariom.”

3. The Counsel for the petitioner contends that he has been falsely implicated in the present case. The alleged occurrence took place on 18.08.2023 at about 9.30 pm whereas the FIR was registered on 20.08.2023 after an inordinate delay of 02 days. The CCTV footage of the liquor vend had not been taken into possession to establish the veracity of the prosecution case. In fact it was a financial dispute between the petitioner and the complainant which had led to the false implication of the petitioner. As the petitioner was ready and willing to join investigation, he was entitled to the concession of anticipatory bail.

4. The Counsel for the State on the other hand contends that the petitioner and his co-accused were duly named in the FIR. Specific allegations have been levelled against them. The petitioner is stated to have taken away Rs.10,500/- from the chest box. Therefore, as the offence was *prima facie* established and the investigation was to be taken to its logical

conclusion the custodial interrogation of the petitioner was necessary and hence the petitioner was not entitled to the concession of anticipatory bail.

5. I have heard learned Counsel for the parties.

6. The Hon'ble Supreme Court in the case of "***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022 Livelaw (SC) 870***", has 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. A perusal of the FIR would show that clear and specific allegations have been levelled against the petitioner and his co-accused. The accused including the petitioner snatched the mobile phone of the complainant as well as the cash amount of Rs.10,500/-. The custodial interrogation of the petitioner is certainly required to effect recovery of the money, mobile phone as well as the motor cycle used in the commission of the offence. Even otherwise, the offence stands *prima facie* established from the FIR and the investigation conducted so far. Therefore, the petitioner is not entitled to the concession of anticipatory bail.

8. In view of the above, I find no merit in the present petition and the same stands dismissed.

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

(JASJIT SINGH BEDI)
JUDGE

April 02, 2024
Vinay

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