

2024:PHHC:097275



IN THE HIGH COURT FOR THE STATES OF PUNJAB AND  
HARYANA AT CHANDIGARH

207

CRM-M-23052-2024 (O&M)  
Date of decision: 30.07.2024

Sunil ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Ashwani Bhatia, Advocate  
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

Mr. P. B. S. Goraya, Advocate  
for the complainant.

MANISHA BATRA, J. (Oral)

- Through the instant petition, filed under Section 438 of Code of Criminal Procedure, 1973, the petitioner seeks anticipatory bail in case FIR No. 14, dated 08.03.2024, registered under Sections 302, 323, 324, 452, 148 and 149 of IPC at Police Station Ramdass, Amritsar (Rural).
- Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on 08.04.2023 the statement of complainant Davinder Singh alleging therein his nephew Harpreet Singh and Vishaldeep Singh were studying in 10th class together in Govt. High School, Madhu Chhaanga. On 08.03.2024, Vishaldeep Singh had

made a telephonic call to Harpret Singh on his phone but the phone had been picked up by the brother of complainant, namely Joginder Singh, and some altercation took place between Vishaldeep Singh and Joginder Singh. Thereafter, Vishaldeep Singh along with his maternal uncle Sukh, Sukhman Singh, Jhujhar Singh and one unknown person came at the house of the complainant in a car and a scuffle took place between them and Joginder Singh. Co-accused Sukh took out his *kirch* (knife) and gave two blows on the stomach of Joginder Singh and the said *kirch* stuck in his stomach. In the meantime, Gurmeet Singh and the complainant tried to save Joginder Singh from the hands of accused persons but Sukhman Singh, who was also armed with a knife, gave blow of the same on Gurmeet Singh at his chest. Thereafter, when the hue and cry was raised, all the accused persons ran away from the spot in their car. Thereafter, Joginder Singh had been taken to the Mahajan Hospital, from where he was referred to Guru Nanak Dev Hospital, where the doctors declared him brought dead. After registration of the FIR, investigation proceedings were initiated. Supplementary statement of complainant had been recorded on 11.3.2024. The petitioner was arrayed as an accused in the present case on the disclosure statements suffered by the co-accused Sukhman Singh and Jhujhar Singh, wherein they stated that the aforesaid unidentified person was the petitioner. The investigation is under way. Apprehending his arrest, the petitioner had filed an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Amritsar but the same had been dismissed, vide order dated 23.04.2024. Hence, he has filed the present petition.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case. The petitioner was not named in the FIR. He was been involved in this case on the basis of the disclosure statement suffered by the co-accused, which is not admissible in evidence against him. More so, no attribution has been made to the petitioner as the altercation had taken place between Vishaldeep Singh and Joginder Singh and the allegations of giving knife blows to Joginder Singh, resulting into his death, are against co-accused Sukh. Petitioner is a young boy, aged about 20 years and is not involved in any other case. He is ready to join investigation. No useful purpose would be served by sending him into custody. Therefore, it is urged that the present petition deserves to be allowed.

4. *Per contra*, learned State counsel, assisted by learned counsel for the complainant, has argued the petitioner along with co-accused had trespassed into the house of the victim, whereby co-accused Sukh had given knife blows to the victim, due to which, he had died. The petitioner had actively participated in the subject crime. There are serious allegations against him. He has been named as the fourth co-accused by accused Sukhman Singh and Jhujhar Singh. The custodial interrogation of the petitioner is required for thorough investigation of the matter. Therefore, it is argued that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

6. The petitioner along with co-accused is alleged to have trespassed into the house of the victim, whereby co-accused Sukh had given

knife blows to the victim resulting into his death. There are serious allegations against the petitioner. He has been nominated on the disclosure of aforesaid two co-accused, who were identified by the complainant at the time of occurrence and have been arrested by the police subsequently. On going through the contents of the FIR as well as status report filed by respondent-State, a *prima facie* case under the aforesaid provisions of IPC is made out against the petitioner. The well settled proposition of law is that while considering an application for grant of anticipatory 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 including intimidating witnesses. The powers under Section 438 of Cr.P.C. are to be exercised in extraordinary and sparing circumstances. More so, custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of Cr.P.C. Many useful information can be disinterred during custodial interrogation. It has also to be seen that an order of anticipatory bail does not operate as inroad in the normal legal procedure of criminal cases by the trial Court. It is also a matter of discretion to grant or not to grant pre-arrest bail. Keeping in view the discussion as made above, I am of the considered opinion that no extraordinary or sparing circumstance entitling the petitioner to seek concession of pre-arrest bail has been made out rather his custodial interrogation is required for thorough investigation in the matter by the police. Accordingly, finding no merit, the petition is dismissed.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

30.07.2024

*Waseem Ansari*

(MANISHA BATRA)  
JUDGE

*Whether speaking/reasoned*  
*Whether reportable*

*Yes/No*  
*Yes/No*