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

207-2

CRM-M-23531-2024 (O&M)
Date of decision: 30.09.2024

Satnam Singh**...Petitioner****Versus****State of Punjab and another****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. J. S. Dhaliwal, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

Mr. H. S. Randhawa, Advocate
for respondent No. 2.

MANISHA BATRA, J. (Oral)

1. The instant one is the second petition for grant of anticipatory bail to the petitioner in GD No. 28 dated 18.01.2020, initially entered under Sections 323, 307 read with Section 34 of IPC and Section 25 of Arms Act, 1959 with offences under Sections 304 and 326 of IPC having been added later on, which is cross version of case arising out of FIR No. 07 dated 18.01.2020, registered under Sections 452, 304, 323, 148 and 149 of IPC at Police Station Ghanaur, Tehsil Rajpura, District Patiala.

2. The adumbrated facts as emanating from the record are that the aforementioned FIR No. 07 had been registered on 18.01.2020, on the basis of the statement recorded by the complainant Baljinder Kaur, wife of the present petitioner, alleging therein that on the same day, she was present in her house

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along with her husband i.e. the present petitioner and father-in-law Lal Singh, when Jassa Singh, Khandu, Baljinder Kaur, two nephews of Jassa Singh entered into her house while being armed with sticks and started extending beatings to her husband and father-in-law by giving fist blows and kicks to them. Victim Lal Singh was then dragged into street and was extended beatings. She alleged that in order to protect his father, her husband Satnam Singh fired shots from his licensed gun and thereafter, the assailants fled away from the spot along with their respective weapons. As stated by the complainant, her father-in-law Lal Singh immediately succumbed to the injuries sustained by him and died at the spot. The motive, which was attributed by her for the occurrence, was that her father-in-law Lal Singh had helped accused Khandu s/o Jassa Singh and Lal Singh had made some satirical comments, due to which, Jassa Singh had felt offended and had caused injuries to them. After registration of the FIR, investigation proceedings were initiated.

3. As per the further allegations, on 18.01.2020 itself, aforesaid GD No. 28 was also registered on the basis of statement recorded by Tiku s/o Baljit Singh alleging therein that on that day, at about 9 AM, he had gone to the house of Baljinder Kaur wife of Jassa Singh and on reaching there, he found that Jassa Singh and Lal Singh were quarrelling with each other. Lal Singh and petitioner Satnam Singh were extending beatings to his brother-in-law Jassa Singh. He had tried to rescue him. In the meanwhile, petitioner Satnam Singh had brought a double barrel gun from his house and had aimed the same towards them. Feeling frightened, he had tried to flee away but in the

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meanwhile, the petitioner had fired 2-3 shots towards them with intent to kill them. The fire shots had hit his back and had injured Karanvir Singh. Accordingly, he prayed for taking action in the matter.

4. It is submitted in the petition and it is also revealed from the record that during the course of investigation, the present petitioner had filed a petition bearing number **CRM-M-13405-2020** before this Court for grant of anticipatory bail at the stage when offences under Sections 304 and 326 of IPC were not added. On 02.06.2020, the following order was passed in the aforesaid petition:

“It is the contention of the learned counsel for the petitioner that a compromise has been entered into between the petitioner's party and the complainant's party. He asserts that it is a case where the allegations are that the petitioner has used his licensed weapon to fire in air. There is no injury caused by the fire-arm. He further contends that in the light of the compromise which has been entered into between the parties, dated 09.03.2020 (Annexure P-2), the petitioner is ready and willing to join investigation and cooperate with the same as also to get effected the recoveries.

Notice of motion.

On the asking of the Court, Mr. H.S. Grewal, Addl.A.G., Punjab, accepts notice on behalf of the State. Mr. Sher Singh, Advocate, has already filed his Power of Attorney on behalf of respondent No.2 –complainant.

Counsel for respondent No.2 – complainant admits the factum of compromise which has been entered into between the parties on 09.03.2020 (Annexure P-2).

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In the light of the statement made by the counsel for the petitioner as also counsel for the complainant, petitioner is directed to join investigation. He shall appear before the Investigating Officer on 08.06.2020 at 10.00 AM at police station Bhanaur, District Patiala and join investigation.

In case the petitioner is arrested, he shall be released on bail to the satisfaction of Arresting Officer, subject to the conditions as contained in Section 438 (2) of the Code of Criminal Procedure.

To come up for further consideration on 24.08.2020.”

5. Then, on 24.08.2020, while confirming the order dated 02.06.2020, the following order was passed in the aforesaid petition:

“Learned counsel for the petitioner states that in compliance with the order passed by this Court on 02.06.2020, petitioner has joined investigation and got recovered the alleged weapon. This fact is admitted by the counsel for the State on instructions from ASI Baljit Singh, Police Station Ghanaur, District Patiala.

Counsel for the complainant, however, vehemently opposes the prayer made by the counsel for the petitioner.

Keeping in view the fact that the petitioner had only fired in the air and no injury has been attributed to him and the weapon also stands recovered, the present petition is allowed.

Order dated 02.06.2020 is hereby confirmed.

Petitioner shall, however, continue to abide by the terms and conditions as envisaged under Section 438 (2) (i) to (iv) Cr.P.C.”

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6. As apparent from the record, during the course of investigation, it was revealed that the death of Lal Singh, father of the present petitioner, had occurred due to sustaining fire arm injury and Tiku and Karanvir Singh had also sustained fire arm injuries and it was the petitioner, who had caused these injuries by firing shot with a double barrel licensed gun of the victim himself. As a result thereof, offences under Sections 304 and 326 of IPC were added against the petitioner in the cross case bearing GD No. 28 arising out of FIR No. 07 dated 18.01.2020. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Patiala but the same was dismissed, vide order dated **22.02.2024**.

7. It is submitted by learned counsel for the petitioner that the order dated 02.06.2020, thereby granting benefit of interim bail to the petitioner, and order dated 24.08.2020, whereby the order granting interim bail to the petitioner had been made absolute, were passed in CRM-M-13405-2020 keeping in the view the fact a compromise had been arrived at between the petitioner and the complainant. It is submitted that subsequently, the offences under Sections 304 and 326 of IPC have been added against the petitioner in this case by the police in connivance with the opposite party. In fact, it was while exercising his right to self defence that the petitioner had fired shots from the licensed double barrel gun belonging to his father, which had unfortunately hit his father Lal Singh. He had no intention to kill his father. No motive whatsoever has been attributed to him for killing his own father. Rather, he wanted to save him from the assailants. In fact, Tiku, lodger of the

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aforesaid GD, and Karanvir Singh are the members of the aggressor party. Both of them had simply sustained pallet injuries. The petitioner had used simply No. 1 cartridges, normally used for bird hunting, which are considered to be non-lethal. He had used a reasonable force to ward off the attack and had not inflicted more harm than necessary. He has already been extended benefit of anticipatory bail in the same very case and had not misused the concession of the same. His custodial interrogation is not required. He is ready to join the investigation. Therefore, it is urged that the petition deserves to be allowed and he deserves to be extended benefit of anticipatory bail.

8. *Per contra*, learned State counsel, assisted by learned counsel for respondent No. 2/complainant, has vehemently argued that there are serious allegations against the petitioner. As per his own admission, he had used double barrel gun at the time of occurrence. Injured Karanvir Singh had received 71 punctured lacerated wounds on the back of his chest and abdomen besides 02 punctured lacerated wounds on his left arm, whereas complainant Tikku had received 33 punctured lacerated wounds on the back of his chest and abdomen. Admittedly, the death of victim Lal Singh was caused due to fire arm injuries caused by fire shots opened by his own son, i.e. the present petitioner. The petitioner had also made attempt to kill the complainant and injured Karanvir Singh. The allegations against him are serious in nature. While securing the benefit of anticipatory bail previously, the material facts to the effect that the father of the petitioner had died due to sustaining fire arm injuries at the hands of the petitioner himself had been concealed. The proper assistance had not been rendered and it was shown that shots had been fired

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by the petitioner in air, due to which, the benefit of anticipatory bail had been granted to the petitioner. It is further submitted that a petition bearing number ***CRM-M-40232-2021*** has been filed by injured Karanvir Singh @ Karan Singh seeking cancellation of the anticipatory bail granted to the petitioner, vide orders dated 02.06.2020 and 24.08.2020 passed by the coordinate Bench of this Court in ***CRM-M-13405-2020***, which had been allowed today itself and the concession of anticipatory bail has been withdrawn. The allegations against the petitioner are serious in nature. He had not only made attempt to kill complainant Tiku and injured Karanvir Singh by firing shots with a gun but had also killed his own father and had concealed this fact from this Court, while securing concession of anticipatory bail. Keeping in view the accusations levelled against him and the severity of the punishment in the event of conviction, the apprehension of material witnesses being threatened and danger of justice being thwarted by grant of anticipatory bail to the petitioner, it is urged that the petition is liable to be dismissed.

9. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record.

10. As culled out from the record, on 18.01.2020, firstly FIR No. 07 was registered on the basis of the statement of Baljinder Kaur, wife of the present petitioner, making allegations that members of the opposite party had entered into her house at about 9 AM on that day and had opened an assault upon the petitioner and his father Lal Singh and caused injuries to them, due to which, victim Lal Singh had died at the spot. On the same day, complainant Tiku recorded a statement before the police that on that very day, a quarrel

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had taken place between Lal Singh and Jassa Singh, who is his brother-in-law. The petitioner and his father Lal Singh had extended beatings to Jassa Singh. He had rushed for rescue of Jassa Singh and then the petitioner had brought a double barrel gun from his house and had fired 2-3 shots with that gun towards them, due to which, he himself and Karanvir Singh had sustained injuries. As already discussed above, offences under Section 304 and 326 of IPC were added subsequently when it was revealed that victim Lal Singh had died, due to sustaining firm arm injuries inflicted upon him by none other than the present petitioner, who is son of the victim. The petitioner has not disputed this fact and the only plea that has been taken by him is that he had fired shots with the gun in self defence and to save his father. As per medico-legal reports of the injured persons, Karanvir Singh had received 71 punctured lacerated wounds on the back of his chest and abdomen besides 02 punctured lacerated wounds on his left arm, whereas complainant/injured Tinku had received 33 punctured lacerated wounds on the back of his chest and abdomen. No doubt, the petitioner had been extended benefit of anticipatory bail by the coordinate Bench of this Court in **CRM-M-13405-2020**, however, a perusal of orders dated 02.06.2020 and 24.08.2020 passed in the aforesaid petition, makes it explicit that the fact that due to fire arm used by the petitioner, his father had died had not at all been mentioned. Rather, the representation that had been made was that the petitioner had used his licensed weapon to fire in the air and no injury was caused by the same and the weapon also stood recovered. It is, therefore, clear that the orders dated 02.06.2020 and 24.08.2020 had been secured by the petitioner by misrepresentation of facts and unfortunately, it

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appears that there was not even proper representation on behalf of the respondent-State at that time. The allegations against him are serious in nature as he is *prima facie* proved to have fired shots with the licensed gun of his father at the time of occurrence, which not only resulted into sustaining pallet injuries by Tiku and Karanvir Singh but also into death of his own father. The petitioner, while firing shots with the said gun, was having the requisite intention as well as the knowledge that either death could be caused or such bodily injury as was likely to cause death could occur by way of the act committed by him and, therefore, he *prima facie* committed offence punishable under Section 304 of IPC. A case for commission of offence punishable under Section 326 of IPC is also *prima facie* shown to be committed by him by causing fire arm injuries to Tiku and Karanvir Singh. The allegations against him are serious in nature. Hon'ble Supreme Court had laid down certain parameters for grant of anticipatory bail in a noted pronouncement reported as ***Siddharam Satlingappa Mhetre vs. State of Maharashtra and others : 2011 (1) RCR (Criminal) 126***, wherein the following observations were made:

“122. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail :

- i. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;
- ii. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;
- iii. The possibility of the applicant to flee from justice;

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- iv. The possibility of the accused's likelihood to repeat similar or the other offences.
- v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.
- vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.
- vii. The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of sections [34](#) and [149](#) of the Indian Penal Code, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;
- viii. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;
- ix. The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;
- x. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.

123. The arrest should be the last option and it should be restricted to those exceptional cases where arresting the accused is imperative in the facts and circumstances of that case.”

11. Keeping in view the gravity of the accusations as levelled against the petitioner, the part played by him and further considering the severity of the punishment in the event of conviction coupled with the fact that there is

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danger of justice being thwarted by grant of anticipatory bail to the petitioner in the peculiar facts and circumstances of the case and the concession of anticipatory bail previously granted to him in **CRM-M-13405-2020** in this very case before addition of offences under Sections 304 and 326 of IPC stands withdrawn today itself, vide order of the even date passed in CRM-M-40232-2021, I am inclined to hold that the petitioner does not deserve to be granted concession of anticipatory bail. Accordingly, the present petition is dismissed.

12. 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.

30.09.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No