



CRM-M-24068-2024

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

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CRM-M-24068-2024

Date of decision: 14.05.2024

Satnam Singh

...Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Naresh Kumar Manchanda, Advocate for the petitioner.

SUMEET GOEL, J. (Oral)

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.76 dated 19.04.2024 registered for offences punishable under Sections 354-D, 506, 34 of IPC and Sections 25, 27 of the Arms Act, 1959 at Police Station City Moga, District Moga.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner(s)) is as follows:-

“Application No. 1243-PC 7/24 dated 23.03.2024 by Amandeep Kaur daughter of Subeg Singh son of Mohan Singh resident of Guru Amar Das Nagar Zira Road Moga, Tehsil Moga, District Moga. The detail of application is as followed. To, SSP Sahib, City Moga. Subject: Application for taking legal action against the: 1 Satnam Singh son of Avtar Singh resident of Sadar Kot, Tehsil Dharamkot, District Moga. Mobile number 81466-00004 (8194000002 of Satnam Singh's brother Joginder Singh) 2-3 unidentified person. Sir, The petitioner humbly requests that:-1. That I am Amandeep Kaur daughter of Subeg Singh son of Mohan Singh, resident of Guru Amar Das Nagar, Zira Road, Moga, Tehsil Moga, District Moga. I am a law abiding citizen of India. 2. That I was studying in +2 class at Govt. Girls Senior Secondary School Moga. 3. That on 2.3.2024, I had examination at S.D. Model Senior Secondary School, Moga. 4. That on the date 2.3.2024, the said Satnam Singh etc. on his Thar Vehicle carried out a Reki near our house, the footage of which is also in the CCTV camera. 5. That on 2.3.2024, I was returning home by e-rickshaw after giving my



examination, when I reached near the fish market Moga, the said accused Satnam Singh along with his three other accomplices on his Thar Vehicle having registration number PB-29 J-0663 started following me and as I was going to the market, the said Satnam Singh tried 2-3 times to give me his number, but I did not take his number. Satnam Singh threatened me at pistol point to get his number, but I did not get his number. I informed my father about this on the phone and when I reached near my house, suddenly my friend Jasmin Kaur came in front of the camera on a scooter. My father told me that you should stay near the camera. The partner of the said Satnam Singh dropped the number 81466-00004 and my father asked me to pick up the number written on the slip, on which I picked up the number. 6. That regarding this incident my mother Manjit Kaur gave an application at Police Station City Moga, which has handed over by SHO Sahib to Ramesh Lal ASI. Who called the said Satnam Singh etc. after 5-6 days, where he got information about the name of the said Satnam Singh. 7. That Ramesh Lal ASI pressured my father to compromise instead of taking any action against the said Satnam Singh etc, and they were released. Which is also in the footage of Satnam Singh etc. in the CCTV camera installed in the police station, which can be seen. 8. That, I am under shock regarding this incident and also telling to my parents to stop studying further, so that any untoward incidents do not happen to me. If there is any loss to me or our family, then the above said Satnam Singh etc. will be responsible. 9. That in this regard my father Subeg Singh had given an application to respected SSP Sahib Moga, which was marked to police station, City Moga-1 and which was being investigated by Charanjit Kaur ASI, in which I was called to give a statement. When I alongwith my parents went to Police Station City Moga, then Charanjit Kaur ASI send my parents out of the office and I found Charanjit Kaur ASI and another employee named Ganga, who was not in uniform. When Satnam Singh was presented before me by the said Police employees and I was asked that you know him, I said that I do not know him and only recognize him, who wrote my statement and I was threatened and it was also said that if your fault is found then a case will be registered against you. The way I wrote the statement was distorted. Instead of taking any action against Satnam Singh, the police personnel tried to blame me. 10. That instead of checking the footage of the CCTV camera by getting Satnam Singh's mobile phone, the said policemen took possession of my mobile phone, board roll number slip. 11. It is clear from this that there is no possibility of me getting justice from the abovesaid police personnel in



case of connivance with Satnam Singh etc. Therefore, it is humbly requested that the said Satnam Singh and his unknown accomplices be identified and legal action be taken against them. Instead of investigating my application at City Police Station Moga, be done from the higher officer of the police department and justice be given to me. Please return my mobile phone. You will be very kind. With thanks Application Sd/- Amandeep Kaur. Amandeep Kaur daughter of Subeg Singh son of Mohan Singh, resident of Guru Amar Das Nagar Zira Road Moga Tehsil Moga District Moga”

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. From the bare perusal of the FIR, the allegations levelled against the petitioner are vague in nature. Learned counsel has further submitted that there is an inordinate and unexplained delay of 1½ months in lodging the instant FIR as the alleged occurrence took place on 02.03.2024 and the FIR came to be registered on 19.04.2024. Learned counsel has further submitted that totally 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. It has been further argued that petitioner is a married person aged about 34 years having a family comprising of wife and one child. Being a family man and having clean antecedents, it is unlikely that the petitioner has committed any offence alleged in the 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. I have heard the learned counsel for the petitioner and have gone through the available records of the case.



5. 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 enroped 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.”

6. Indubitably, serious allegations have been leveled against the petitioner in the FIR. The petitioner is alleged to have stalked the victim, followed her persistently while in his vehicle (Thar jeep) and, also attempted to forcibly provide his contact information to the victim at gun point. The said incident is also stated to be captured in the CCTV camera. The victim



has also articulated her fear of an impending mishap occurring due to the persistent action(s) of the petitioner. The egregious nature and compelling gravity of offence, as also the role of an unrelenting menacing stalker attributed to the petitioner leads to an unequivocal conclusion that the petitioner does not deserve the concession of anticipatory bail. It is befitting to mention here that while considering a plea for grant of anticipatory bail, the Court has to equilibrate between safeguarding individual rights and protecting societal interest(s). The Court ought to reckon with the magnitude and nature of the offence; the role attributed to the accused; the need for fair and free investigation as also the deeper and wide impact of such alleged iniquities on the society. It is imperative that every person in the Society can expect an atmosphere free from foreboding & fear of any transgression. Any such affront to an individual also impacts the family and Society adversely. A man who is hounding a young female while brandishing a gun, poses a threat which can become a cause of disquiet and pernicious trauma for the victim as also her family. Such acts require active deterrence lest these may vitiate the social civic order and fabric of 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 egregious nature as also severity of allegations leveled against the petitioner, it may not be possible for the investigating agency to unravel the entire truth including identity of unknown accomplices as also to recover the gun alleged to have been used by the petitioner, in case petitioner is armed with a protective order.



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

Ordered accordingly.

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

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

(SUMEET GOEL)
JUDGE

May 14, 2024
Ajay

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