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THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.30990 of 2024
Date of Decision: 03.07.2024

Babblu alias Molla

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Amit Arora, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

1. Present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.24, dated 19.04.2024, under Sections 25 of Arms Act, 1959 and Section 120-B of IPC, 1860, registered at Police Station State Special Operation Cell, Amritsar District Intelligence Wing (CID).
2. As per the facts of the case, the police received a secret information that Ranjit Singh son of Pal Singh in connivance with other unknown persons had formed a criminal gang. Ranjit Singh had obtained the illegal weapons ammunition from the unknown persons. Finding the secret information to be reliable, the FIR was registered and the investigation commenced. The nakabandi was laid at the disclosed place



and the accused, namely, Ranjit Singh was arrested. One pistol 9 MM along with magazine and 5 live cartridges of 9 MM were recovered from him. During the interrogation, Ranjit Singh disclosed about the co-accused, namely, Tarsem Singh, who disclosed about the involvement of Babblu @ Molla i.e. the petitioner. Thus, the petitioner was also arrayed as an accused in this case. Apprehending his arrest, the petitioner approached the Court of learned Sessions Judge, Tarn Taran praying for the grant of anticipatory bail. However after hearing both the sides, the learned Sessions Judge, Tarn Taran declined the same vide his order dated 23.05.2024. Hence the petitioner is before this Court by way of filing the present petition for the grant of bail.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He has submitted that neither the petitioner was named in the secret information nor any recovery was effected from him. He submits that the secret information was received regarding Ranjit Singh, who made a disclosure about the co-accused, Tarsem Singh. He submits that it is on the disclosure made by Tarsem Singh that the petitioner has been arrayed as an accused in the present case. He submits that the disclosure statement of the co-accused is not a reliable evidence and thus, false implication of the petitioner is evident. He thus submits that the petitioner being innocent, deserves to be granted anticipatory bail.

4. Notice of motion.



5. On asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of the respondent-State. He has opposed the submissions made by learned counsel for the petitioner and has submitted that complicity of the petitioner has been *prima facie* established in the present case during the investigation conducted so far and thus, custodial interrogation of the petitioner is required for the thorough and fair investigation of the case. He thus submits that there being no ground in the petition filed by the petitioner for grant of anticipatory bail, the same deserves to be dismissed.

6. Heard.

7. On hearing learned counsel for the parties and perusing the record, it is evident that though the petitioner was not named in the secret information, however after arresting the accused Ranjit Singh, the interrogation was conducted and on his disclosure, one Tarsem Singh was arrested. Tarsem Singh had disclosed about the complicity of the petitioner wherein he had disclosed that in the year 2023, he fixed a deal for purchasing a pistol 9MM from the petitioner at the rate of Rs.2,75,000/-. Co-accused Ranjit Singh had procured 9 MM pistol along with magazine and 5 live cartridges of 9 MM from the petitioner after paying him Rs.2,75,000/-. This pistol was recovered by the Investigating Agencies from accused Ranjit Singh. As submitted before this Court, the petitioner is also involved in other NDPS case. From the investigation conducted so far, complicity of the petitioner is *prima facie* established.



8. For the consideration of anticipatory bail, the statutory parameters are given under Section 438(1) Cr.P.C. which reads as under:-

“Direction for grant of bail to person apprehending arrest:-

(1) *Where any person has reason to believe that he may be arrested on accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest he shall be released on bail; and that Court may, after taking into consideration, inter alia, the following factors, namely:-*

- (i) *the nature and gravity of the accusation;*
- (ii) *the antecedents of the applicant including the fact as to whether he 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; and*
- (iv) *where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested, Either reject the application forthwith or issue an interim order for the grant of anticipatory bail.”*

9. As per the law settled by the Hon'ble Supreme Court, in ***Gurbaksh Singh Sibbia Vs. State of Punjab***, AIR 1980 SC 1632, while granting anticipatory bail, the Court is to maintain a balance between the individual liberty and the interest of society. However, the interest of the society would also prevail upon the right of personal liberty. The relevant part of the judgment is as follows:-

31. *In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested,*



a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the state" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in State v. Captain Jagjit Singh (1962) 3 SCR 622, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the



acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.

10. The Hon'ble Supreme Court in *State Vs. Anil Sharma*, (1997) 7SCC 187, held as under:-

6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable 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.

11. Weighing the facts of the case on the anvil of the law settled, it is apparent that the complicity of the petitioner has been prima facie found. The investigation is at its threshold. The allegations made during



the investigation are found to be serious. Thus, granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.

In view of the overall facts and circumstances of the case, the petitioner do not qualify for the grant of anticipatory bail and the same is hereby dismissed on merits. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

03.07.2024

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