

103 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-30929-2024
Date of decision: 2nd July, 2024

Rajinder Singh @ Malli

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vikas Gupta, Advocate for the petitioner.
Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 438 of Cr.P.C.
seeking anticipatory bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
28	16.02.2024	City Tarn Taran, District Tarn Taran	307, 34 and 120-B of IPC, 1860

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was lodged on the basis of statement recorded by the complainant Daljeet Singh @ Sewak alleging therein that on 16.02.2024 at about 3:30 PM, he was taking hair cut at a local barber shop, when accused Manjinder Singh @ Mintu and Palwinder Singh @ Laadi came there on a bike. They started hurling abuses to the complainant from outside the shop and on asking the reason for doing so,



while saying that they had been asked by the present petitioner and the co-accused Vishal Kumar to kill him and they would be paid a sum of Rs. 1,00,000/-, left the spot. When the complainant was going back and reached in front of house of Munshi, then the abovesaid accused Manjinder Singh @ Mintu and Palwinder Singh @ Laddi intercepted him by coming on a motorcycle and fired a shot with some armed weapon upon him with an intention to kill him and thereafter, fled from the spot. He sustained injury in his abdomen. His wife rushed to the spot on seeing him and he was immediately taken to the hospital. He alleged that the motive for making an attempt to kill was that some days back, a dispute had taken place between him and Vishal Kumar and a case bearing FIR No. 10 dated 10.01.2024 was registered at Police Station City, Tarn Taran. The assailants under the influence and instructions of the abovesaid Vishal Kumar and the present petitioner had tried to kill him. After registration of the FIR, investigation proceedings have been initiated and are under way. The petitioner had moved an application for grant of pre-arrest bail before the Court of learned Additional Sessions Judge, Tarn Taran which was dismissed vide order dated 04.06.2024.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case. Admittedly, he was not present at the spot at the time of commission of the alleged offence of making attempt to kill the complainant by using some firearm. He was nominated in the FIR on the basis of disclosure statement of the co-accused which is not admissible in evidence.



His custodial interrogation is not required. No recovery is to be effected from him. He is ready to join the investigation. Therefore, it is argued that the petition deserves to be allowed and he deserves to be extended benefit of bail.

4. *Per contra*, learned State counsel has vehemently argued that there are serious and specific allegations against the petitioner. It is not that the petitioner was named only in the disclosure statement of the co-accused but even at the time of lodging of FIR on the day of occurrence itself, the complainant had disclosed that the accused Manjinder Singh @ Mintu, Palwinder Singh @ Laadi had hurled abuses to him and also told him that they had been given contract to kill him for a sum of Rs. 1,00,000/- by the present petitioner and the co-accused. It is argued that the petitioner hatched a conspiracy with the co-accused and in pursuance of that conspiracy, the co-accused had fired shots on complainant with pistol with an intention to kill him. He has criminal antecedents. As many as seven cases stand registered against him. There are chances of his intimidating the witnesses or absconding, if extended benefit of bail. Therefore, it is argued that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. The Hon'ble Apex Court has laid down certain parameters for grant of bail in a celebrated pronouncement cited as "*Siddharam*

Satlingappa Mhetre vs. State of Maharashtra and others : 2011 (1) RCR



(Criminal) 126”, the parameters for grant of anticipatory bail had been succinctly laid down by making the following observations:

- “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;*
 - 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.”

7. The petitioner is alleged to have hatched a conspiracy with the co-accused and as per the allegations, on the behest of the petitioner, the co-accused Manjinder Singh @ Mintu had fired a shot with the pistol on the complainant with an intention to kill him. The complainant had admittedly sustained a fire arm injury in his abdomen. The pistol used in the crime had been recovered from the co-accused Palwinder Singh on the same day. Though it has not come on record that the petitioner was physically present at the time of occurrence, however, specific allegations about his engaging the co-accused Palwinder Singh and Manjinder Singh as contract killers for a sum of Rs. 1,00,000/- to kill the complainant have been levelled which are obviously serious in nature. It is well settled that 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 is also a matter of discretion to grant or not to grant pre-arrest bail. Keeping in view the nature of the subject offences and no extra

ordinary circumstance is shown to have been made out in this case, I am of the considered opinion that custodial interrogation of the petitioner is required for conducting thorough investigation in the matter by the police. Accordingly, no ground for extending benefit of pre-arrest bail is made out. Hence, the petition stands dismissed.

7. It is, however, clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
8. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]

JUDGE

2nd July, 2024

Parveen Sharma

1. Whether speaking/ reasoned

:

Yes
2. Whether reportable

:

Yes