



CRM-M-31783-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-31783-2024

Date of decision: 08.07.2024

Neet Pal @ Neeta

...Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Karanjeet Singh Brar, Advocate for the petitioner.

SUMEET GOEL, J. (Oral)

1. The present petition has been filed by the petitioner-Neet Pal @ Neeta under Section 438 of Code of Criminal Procedure, 1973 (hereinafter referred to as 'the Cr.P.C.') seeking pre-arrest anticipatory bail in FIR No.38 dated 07.05.2024 registered under Sections 376, 354-B of IPC and Section 6 of Protection of Children from Sexual Offences Act, (Amended) 2012 at Police Station Lakho Ke Behram, District Ferozepur.
2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:

“Statement of victim girl daughter of Balwinder Singh son of Mehar Singh resident of Chakk Kandhey Shah, aged about 15 years. I would like to state that I am resident of above noted address and I am student of 10th class. We are four siblings. Elder brother Sukha Singh, younger to him sister Mandeep Kaur, I am younger to her and my date of birth is 15.07.2009 and younger to me is my brother Nishan Singh. About five years ago, my father Balwinder Singh son of Mehar Singh had made physical relations with me in the house for many times and when my mother Chaajit Kaur went to meet my Bhua Ji then my father had made physical relations with me.

At that time, my mother saw my father while doing bad acts with me and stopped my father from doing so and my mother had dropped me to the



house of my Aunt/Massi in Ferozepur, where I stayed for two months and my Masad/uncle Neeta son of not known resident of Ferozepur had also done bad acts with me, due to which, after some time, my mother and brother have brought me back to my house but I did not disclose about it to my mother and when I was student of 8th class then my brother Sukha Singh has also tried to do bad acts with me by removing my clothes but I did not disclose about it to anybody. Yesterday during intervening night of 08.05.2024 at around 1.00 AM, my brother Sukha Singh had done bad act with me and today at morning time, I informed about it to my Madam Sukhwinder Kaur who his Hindi Teacher then Madam told me that we will make your family understand by visiting your house. Later on, I took mobile phone from Madam Reena and made phone call at helpline No. 1098 and disclosed about it. Madam Reena also told me that we have to register a complaint in this regard and after registration of complaint, I sat in the school. Strict legal action be taken against them and justice be provided to me. I have got recorded my statement in the presence of my Madam Jaswinder Kaur, read and heard it, same is correct. Sd/- victim girl, supported by Sd/- Jaswinder Kaur (DCPO), Ferozepur”

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case and is not connected with the alleged offence. Learned counsel has further submitted that there is inordinate and unexplained delay of more than 05 years in lodging the instant FIR. A false and fabricated story has been concocted by the complainant. It has been further argued that the victim initially in her statement made before the Police has levelled only allegations of outraging of her modesty but later on the victim has improved her statement made under Section 164 of Cr.P.C. Learned counsel has further submitted that the victim is habitual of leveling false allegations of rape which fact is clearly decipherable from the fact that she has also levelled allegations of rape against her father and her brother also. It has been further argued 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-enconced 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. As per the allegations in the FIR, it is indubitable that serious allegations have been levelled against the petitioner. The victim is alleged to have levelled specific allegations of sexual ravishment against the petitioner

in her statement made under Section 164 of Cr.P.C., 1973. The nature and



gravity of the offence, the role attributed to the petitioner essentially lead to unequivocal conclusion that the petitioner does not deserve the concession of anticipatory bail. It goes without saying that in the instant case, the victim has categorically stated that she was sexually ravished by her own father, uncle and brother, it is not appropriate to grant anticipatory bail, as it would necessarily cause impediment in effective investigation. Delay in lodging the FIR in facts of present case cannot be used as a dent for discarding prosecution case and doubting its authenticity. Accordingly, this Court is of the considered opinion that the petitioner does not deserve the concession of anticipatory bail. Moreover, custodial interrogation of the petitioner is necessary for an effective investigation & to unravel the truth. The petition is, thus, devoid of merits and is hereby dismissed.

7. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case and the investigating agency as also the trial Court shall proceed further, in accordance with law, without being influenced with this order.

8. Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

July 08, 2024
Ajay

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