



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-33635-2024

Date of decision: 17.07.2024

Som Dutt

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. S.K. Garg Narwana, Senior Advocate with
Mr. Vishal Garg Narwana, Advocate,
Mr. Nitin Sachdeva and RPS Jammu, Advocate
for the petitioner.

Mr. Adhiraj Singh Thind, AAG Punjab.

Mr. Preetinder Singh Ahluwalia, Advocate with
Mr. Sushant Kareer, Advocate for the complainant.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed on behalf of the petitioner seeking grant of anticipatory/pre-arrest bail under Sections 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter to be referred as 'BNSS') in FIR No.120 dated 11.06.2024 registered for offences punishable under Sections 452, 323, 354, 506 & 509 of IPC and Section 25 of the Arms Act, 1959 (added later on) at Police Station Sadar Ludhiana, District Police Commissionerate Ludhiana.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner(s)) is as follows:-

“Statement of Sunita Singla wife of Deepak Singla Resident of House No. 629 B, Agar Nagar Ludhiana aged about 63 years, Mobile No. 9876363111. Stated that I am resident of above mentioned address. I am director of Deepak Builder Engineer, India Limited, the office of this firm is situated at Shaheed Bhagat Singh Nagar near Lodhi Club. Our firm often require security guard. Since last 10 years our firm is taking security



guards from Som Dutt son of Om Parkash resident of House No. 51 H, Shaheed Bhagat Singh Nagar, Ludhiana. As the behaviour of Som Dutt was not good towards me and our staff from few months, we were not taking security guards from him and have also told him not to come in our firm and office. Because on 25.5.24, Som Dutt by telephonically called me said bad words, abused me and gave threats to kill me that will shoot me. Today on 11.6.24, at about 11:15 a.m, I was present in my office then Som Dutt by quarrelling with our security guard Kulwinder Singh, was having pistol in the dub and by pushing forcibly came in our office. Who at once after coming started abusing our cashier Kulbhushan Kapoor loudly then in the meanwhile I also came out from the cabin of my office and Som Dutt upon seeing me started giving filthy abuses and gave threats to kill me that today will kill you and he also said that I will shoot on your private part due to which my dignity being a women got hurt. In the meanwhile all our staff gathered. After which my manager Ashok Kumar tried to stop Som Dutt then Som Dutt started scuffling with him and gave threats to kill me. After which, Balvir Singh @ Jolly came forward for our defence then Som Dutt also abused and scuffled with him. When the staff by intervening raised alarm then Som Dutt along with his weapon fled away from the spot and while going he said that cameras are installed here therefore I cannot shoot you but outside nothing will be stopping me. The reason behind the grudge is that on the asking of Som Dutt, we had kept one girl in the office, as her work was not good we had removed that girl from the job. Strict action be taken against Som Dutt for doing as such. Have got recorded the statement with you, heard it, it is correct. Sd/- Sunita Singla (in English) attested sd/- Major Singh ASI, P.S Sadar Ludhiana. Dated 11.06.2024.”

3. Learned senior counsel for the petitioner has argued that the very narrative of FIR is completely unpalatable since the petitioner was having very cordial family relations with the complainant and her entire family. From the bare perusal of the FIR, the allegations levelled against the petitioner are vague in nature. Furthermore, learned counsel submits that the petitioner has not trespassed into the office of the complainant on the alleged day of occurrence. Rather, the petitioner has received a telephonic message



According to the learned counsel, the petitioner was unaware of the deep rooted conspiracy being hatched by the complainant to settle her grudge against him. Moreover, there is an inordinate and unexplained delay in lodging the instant FIR. Learned counsel further submits that petitioner has two licensed weapons, one of which was deposited by the petitioner himself with the gun dealer and the other was sold way back before the alleged occurrence and as such, petitioner was not in possession of any weapon on the alleged day of occurrence. 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. Learned counsel appearing for the State has vehemently opposed the grant of anticipatory bail to the petitioner as he has trespassed into the property of the complainant and threatened to kill her. According to him, the petitioner is a habitual offender as he is involved in four other cases, though acquitted in three cases and is on anticipatory bail in one case. He further submits that petitioner has also assaulted two employees of the complainant on the day of occurrence upon which they were to be hospitalized. Moreover, the entire occurrence has been captured in the CCTV footage.

5. Learned counsel appearing for the complainant has strenuously opposed the grant of anticipatory bail to the petitioner. He submits that the petitioner is involved in a serious offence and the prosecution has gathered sufficient evidence against him. According to him, the petitioner, who was



armed with an illegal weapon, trespassed into the property of the complainant and threatened her of dire consequences.

6. I have heard the learned counsel for the parties and have gone through the available record of the case.

7. 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 enroled 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.”

8. Indubitably, serious allegations have been levelled against the petitioner in the FIR. The petitioner is alleged to have trespassed into the



property of the complainant and threatened to kill her. The said incident is also stated to be captured in the CCTV camera. The egregious nature and compelling gravity of offence, as also the role attributed to the petitioner leads to an unequivocal conclusion that the petitioner does not deserve the concession of anticipatory bail. 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 severity of allegations levelled against the petitioner, it may not be possible for the investigating agency to unravel the entire truth as also to recover the gun alleged to have been used by the petitioner, in case petitioner is armed with a protective order.

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

Ordered accordingly.

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

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

(SUMEET GOEL)
JUDGE

July 17, 2024
Ajay

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