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

**CRM-M No.33967 of 2024 (O&M)
Date of Decision: 06.08.2024**

Rajvinder Singh

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Sahir Singh Virk, Advocate for
Mr. V. B. Godara, Advocate
for the petitioner.

Mr. Pradeep Duhan, Advocate
for the complainant.

RAJESH BHARDWAJ, J.

CRM-30639-2024

Instant application has been filed for placing on record the
copy of MLR of the complainant Jugal Singh as Annexure P-3.

For the reasons recorded in the application, the same is
allowed and copy of MLR of complainant Jugal Singh is ordered to be
taken on record as Annexure P-3.

CRM-M-33967-2024

1. Present petition has been filed under Section 438 Cr.P.C.
for grant of anticipatory bail to the petitioner in case FIR No.1339,



dated 22.12.2023 (Annexure P-1), under Sections 307/323/506/34 of IPC, registered at Police Station Sadar Hisar, District Hisar during the pendency of trial.

2. Succinctly the facts of the case are that the present FIR was registered on the statement of complainant, namely, Jugal Singh. It was alleged that on 20.12.2023, at about 9.00 p.m., he was at his shop and at that time, Rajvinder @ Sinku i.e. the petitioner and Bantu @ Bunty came in front of his salon in their car bearing No.HR20AX-4817 and they started abusing him. However he returned to his house along with his brother, namely, Surendra Singh. After about 30 minutes, Rajvinder @ Sinku and his friend Bantu @ Bunty came in the car, which was being driven by Rajvinder and Bantu was sitting with him. They started abusing them. On hearing the abuses, he and his brother Surendra came out in the street. It was alleged that Rajvinder @ Sinku ran his car over both of them with an intention to kill them. His brother Surendra move to one side and the complainant hold the bonnet. Rajvinder dragged him on the bonnet of the car and hit him against an electric pole. He narrowly escaped death. It was alleged that both of them hit with the car with intention to kill and thus, request was made to take the legal action against both the culprits. On registration of the FIR, the investigation commenced. However apprehending his arrest, the petitioner approached the Court of learned Additional Sessions Judge, Hisar praying for the grant of anticipatory bail. However after hearing both the sides, the learned Additional



Sessions Judge, Hisar declined the same vide his order dated 27.02.2024. Hence the petitioner is before this Court by way of filing the present petition for the grant of pre-arrest bail.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He has submitted that the allegations are false and frivolous as the petitioner has no concern with the allegations as alleged. He has submitted that the injuries suffered by the complainant, on medical examination, were found to be simple in nature and the offence under Section 307 IPC is not made out. He has submitted that there being no *prima facie* case against the petitioner, he deserves to be granted anticipatory bail.

4. Notice of motion.

5. On asking of the Court, Mr. Sumit Jain, Addl. A.G., Haryana 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 there are specific allegations against the petitioner and the co-accused. He has submitted that it was the petitioner, who was driving the car and who intentionally dragged the complainant on the bonnet and hit the car with the electric pole. He has submitted that the injuries suffered by the petitioner have been corroborated in the medical examination. He submits that from the facts and circumstances, the intention of the petitioner is clearly made out. He further submits that the petitioner is involved in three more



cases and thus he is a habitual offender. He submits that the anticipatory bail filed by the co-accused has already been dismissed by this Court. He submits that the case is under investigation and thus there being no merit in the petition, the same deserves to be dismissed.

6. Learned counsel for the complainant has also opposed the submissions made by learned counsel for the petitioner.

7. Heard.

8. On hearing learned counsel for the parties and perusing the record, it is deciphered that the allegations against the petitioner have been levelled specifically by the complainant stating therein that the petitioner was driving the car. The petitioner allegedly hit the complainant with the car, who fell on the bonnet of the car. The petitioner thereafter carried the complainant on the bonnet itself and hit the same with the electric pole. The complainant suffered injuries as evident from the MLR which is placed on record as Annexure P-3. The similar petition filed by the co-accused as submitted by learned counsel for the State has already been declined by this Court. The petitioner is said to have been involved in 03 more cases. The investigation is at threshold.

9. 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.”*

10. 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.

11. 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.

12. 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.

13. 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.

06.08.2024

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Whether speaking/reasoned

Whether reportable

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Yes/No

Yes/No

(RAJESH BHARDWAJ)
JUDGE