

CRM-M-35031-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-35031-2024
Reserved on: 06.09.2024
Pronounced on: 20.09.2024

Amanjit Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vipin Mahajan, Advocate
for the petitioner.

Ms. Swati Batra, DAG, Punjab (Through VC).

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
15	15.03.2024	Division No.1, District Pathankot, Punjab	379, 413 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.
2. As per paragraph 11 of the bail petition, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	25	27.03.2024	379, 413, 473, 411 IPC	City Batala
2	24	25.04.2024	379, 413, 34 IPC	Division No.1, Pathankot

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

*“That brief facts of the FIR number:-
FIR No 15 dated 15-03-2024 U/S, 379 IPC (section 413 IPC was added later on vide DDR No. 19 dated 11.06.2024) registered at P.S. Division No-I, Pathankot based on the following incident:
i) The complainant namely Rahul Gupta son of Manohar Lal R/o Anandpur Road Near Sharma Dairy, Mohalla New Abadi, P.S. Division No 1, Pathankot had recorded his statement that he is a resident of the above-mentioned address and is running a garment shop at Khanpur Chowk, Pathankot. He further stated that he had purchased one car Brezza Colour White bearing Registration no PB-35-AD- 2304 in his*

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name and he used to park the said car on the road in front of Vivekanand School Anandpur because the car could not enter the street which goes to his house.

ii) That on 14-03-2024 at about 10:15 PM he parked his aforesaid car in front of Vivekanand School Anandpur Tanki and went to his house and on the next day i.e. on 15-03-2024 at about 7:15 AM, when the complainant was going to drop his brother for bus stand and reached near Vivekanand School his car was not parked there. He searched for his car but he could not locate the same and his car had been stolen by some unknown people.

iii) That after the registration of the present FIR, the police were trying to get the clue of the accused persons. The Police of P.S. Division No-I, Pathankot received information from P.S City Batala, District Gurdaspur that one accused namely Kanwaljit Singh @ Kanwalpreet Singh was arrested in FIR no 25, dated 27-03-2024, U/s 379, 413, 473, 411, IPC registered at P.S. City Batala had made confession statement regarding him along with the present petitioner namely Amanjit Singh his brother-in-law and Akashdeep Singh @ Akash s/o Kabal Singh Rio Kula Chownk Patti District Tarn Taran committing theft of one car Brezza Colour White near Vivekanand School Pathankot in march 2024 and he had further confessed that he along with the present petitioner and Akashdeep @ Akash committed theft of cars in the areas of Batala, Dinanagar, Gurdaspur, Pathankot and Kapurthala and used to sold the said cars to one person at Moga through Surjit Singh of Delhi.

iv) That during the investigation dated 11.06.2024 the accused namely Kanwaljit Singh @ Kanwalpreet Singh was arrested after obtaining a production warrant from the Court of Illaqa Magistrate. It is further made here clear that during the remand of Kanwaljit Singh said FIR IO had verified the credentials of the accused through the PAIS App it was verified that there are 11 more cases registered against the accused Kanwaljit Singh @ Kanwalpreet Singh in different Police Stations of Punjab and then the offense under section 413 IPC was enhanced. With DDR no 19 dated 11-06-2024 in the present."

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State's counsel opposes bail and refers to the reply.

6. It would be appropriate to refer to the following portions of the reply, which read as follows:

*"A. **Role of Present Petitioner:** The present Petitioner is a partner in crime with the accused Kanwaljit Singh @ Kanwalpreet Singh and is also a relative of the said accused. The said accused namely Kanwaljit Singh @ Kanwalpreet Singh had mentioned the fact regarding the committing of theft of cars in the area of Batala, Gurdaspur, Pathankot and Kapurthala in connivance and active participation of the present petitioner and Akashdeep @ Akash. It is pertinent to mention here that the IO had trying to arrest the present Petitioner but the present petitioner was got lucky and released few days prior to the visit of the present police official for obtain the production warrant of the present petitioner and thereafter he*

had applied for the anticipatory bail in the present case before the Court of Session Judge, Pathankot, which was dismissed by the Ld. Session Court vide order dated 11.07.2024 by keeping in view the heinousness of the offence committed by the present petitioner and involvement of the present petitioner in such like activities.

***B. Evidence against the present Petitioner:** - That the present petitioner had played an active role in the commission of the offense and the disclosure statement made by the co- accused namely Kanwaljit Singh @ Kanwalpreet Singh is the only piece of evidence the prosecution agency has against the present petitioner at the moment. It is pertinent to mention here that the present investigation is at a very initial stage and the evidence. The Recovery of the stolen car Brezza bearing No PB-35-AD-2304 from P.S. Bhikiwind District Tarntaran is also corroborated with the confession statement made by the co-accused namely Kanwalpreet Singh @ Kanwaljit Singh. ”*

7. There is sufficient prima facie evidence connecting the petitioner with the alleged offense; still, it is neither a case for custodial interrogation nor pre-trial incarceration. Although the evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing the same for the bail stage.

8. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail.

9. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

10. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

11. The petitioner is directed to join the investigation within seven days and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act. The petitioner shall join the investigation as and when called

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by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

12. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

13. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

14. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

15. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

20.09.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.