

2024:PHHC:098115



**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

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CRM-M-37006-2024 (O&M)

Date of decision: 01.08.2024

Rajinder Kumar @ Manu**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Kuldip Singh, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Through the instant petition, filed under Section 482 of Bhartiya Nagarik Suraksha Sanhita, 2023, the petitioner seeks anticipatory bail in case FIR No. 15, dated 03.02.2024, under Sections 380, 454, 447, 511 and 120-B of IPC at Police Station Sadar Bahawala, District Fazilka.

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on 03.02.2024 on the basis of the statement recorded by the complainant Raghuveer Mohan alleging therein that he had purchased a *nehri* on which two rooms were constructed and he had placed 30 bags of DAP, 30 bags of potassium, 25 bags of urea, 40 bags of single super phosphorus, 20 bags of godrej organic fertilizer and several other articles there and both the rooms were locked. It was further alleged that in the month of January, 2024, they had gone to Udaipur, Rajasthan to attend a marriage function and when they came back on

31.01.2024, they found that the locks of both the rooms were lying broken and all the articles kept there were stolen. On inquiry, one Kalu Ram told him that he had seen Balwant Ram in front of the said rooms and about one month ago, Parveen Kumar came there at about 1-2 pm and with the help of the petitioner and 04 other persons had stolen the articles lying in the rooms on a vehicle. He also came to know that accused Vinod Jiani, petitioner Rajinder Kumar @ Mannu and Parveen Kumar along with 2-3 unknown persons, in criminal conspiracy with Balwant Ram and his son Ved Parkash, had committed the subject offence. It was further alleged stated that some articles were kept in the house/nehri of Mangi and some articles were kept in the house of Vinod Jyani. The motive behind the occurrence was that accused Balwant Ram is claiming his right over the said *nehri* purchased by the complainant and regarding this, he had also filed a false cases in the Civil Court at Abohar. The complainant prayed for taking action against the cuprits. After registration of the FIR, investigation proceedings have been initiated and the same are going on. Apprehending his arrest, the petitioner had filed an application for grant of anticipatory bail before the Court of learned Sessions Judge, Fazilka but the same had been dismissed, vide order dated 26.07.2024. Hence, he has filed the present petition.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case. The petitioner was not found at the place of occurrence and there is no specific allegation against him. There is no eye witness to the alleged occurrence. There is unexplained delay of 29 days in lodging of the FIR. Co-accused Mangi Ram and Vinod Kumar have already been granted

concession of anticipatory bail by this Court, vide order dated 30.05.2024 passed in CRM-M-14135-2024. The petitioner is ready to join the investigation. No useful purpose would be served by sending him into custody. Therefore, it is urged that the present petition deserves to be allowed.

4. *Per contra*, learned State counsel, who has advance notice of the petition, has argued that there are serious and specific allegations against the petitioner. The petitioner along with co-accused Parveen Kumar and two unknown persons had stolen the articles kept in the rooms of the complainant by breaking the locks of the rooms. Recovery of the stolen articles is yet to be effected. The custodial interrogation of the petitioner is must for proper investigation in the matter as well as for effecting recovery of the stolen articles. Thus, it is urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

6. The petitioner along with co-accused Parveen Kumar and two unknown persons is alleged to have stolen the agriculture articles kept in the rooms of the complainant by breaking the locks of the rooms. The allegations against him are quite serious and specific ones. Though some of the stolen articles have been recovered but the full recovery has not been effected so far. Hence, in the considered opinion of this Court, the custodial interrogation of the petitioner is required for proper investigation in the matter. So far as the cases of Mangi and Vinod Kumar are concerned, who have been granted concession of anticipatory bail by this Court, there was no such allegation that they had either stolen the said articles or were present there at the time of commission of subject crime. Rather, a plea has been taken by them the

articles were sold to them on consideration and they were not aware that the goods purchased by them could be stolen one. The well settled proposition of law is that while considering an application for grant of anticipatory 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 including intimidating witnesses. The powers under Section 438 of Cr.P.C. are to be exercised in extraordinary and sparing circumstances. More so, 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 has also to be seen that an order of anticipatory bail does not operate as inroad in the normal legal procedure of criminal cases by the trial Court. It is also a matter of discretion to grant or not to grant pre-arrest bail. Keeping in view the discussion as made above, I am of the considered opinion that no extraordinary or sparing circumstance entitling the petitioner to seek concession of pre-arrest bail has been made out. Accordingly, finding no merit, the present petition is dismissed.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

01.08.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes