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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39264-2024
Date of Decision: 13.08.2024

Jagdev Singh @ Jagga @ Jagdev Singh Dhaliwal Petitioner

versus

State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Piyush Sharma, Advocate
for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

Mr. Aman Kumar, Advocate
for the complainant.

RAJESH BHARDWAJ J.

1. Present petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 praying for the grant of anticipatory bail to the petitioner in case FIR No.134, dated 04.07.2024, under Sections 126(2), 140(3), 115(2), 118(1), 303(2), 324(4), 191(3), 190 of Bharatiya Nayaa Sanhita, 2023, registered at Police Station City Moga, District Moga.
2. Succinctly the facts of the case are that the complainant, namely, Harmeet Singh lodged an FIR with the police wherein it was alleged that he had studied up to 10+2. On 03.07.2024, he along with his uncle's son, namely, Sonu was sitting pillion on his motor cycle and were going to bring milk from the shop. On the way, one black Scorpio UP



number, one Scorpio number PB 9095, one grey Innova and one Swift car came in which 30-35 youngsters came from behind. From the black Scorpio, Jagdev Singh @ Jagga empty handed, Ravinder armed with *Khanda*, Rajvir @ Lado armed with *Iron Khanda* came out and then Jagdev Singh @ Jagga exhorted to catch them and teach them a lesson. Jagdev Singh @ Jagga caught hold him from the back side and Ravinder & Rajvir @ Lado dragged him and threw him inside the black Scorpio. They all were in drunken condition and compelling him to make a call. He was thus abducted by them and taken to new grain market. He was thrown out of the Scorpio in the grain market. Jagdev Singh @ Jagga gave him *khanda* blow from the reverse side on his thigh. They asked him to make a call to younger brother, namely, Manpreet and then Jagdev Singh @ Jagga gave him *iron khanda* blow on his left thumb. His mobile phone was also taken away by them forcibly. He raised alarm and then they left him in the injured condition. Thereafter his brother, namely, Manpreet Singh arranged one vehicle and got him admitted in the Civil Hospital, Moga for the treatment. Request was made to take the legal action against the culprits. Apprehending his arrest, the petitioner approached the Court of learned Additional Sessions Judge, Moga praying for the grant of anticipatory bail. It was contended before the learned Additional Sessions Judge that the parties have compromised and thus, the petitioner be granted anticipatory bail. However on hearing both the sides, the learned Additional Sessions Judge declined the same vide his order dated 31.07.2024. Hence being aggrieved the petitioner is before this Court by way of filing the present petition praying for the grant of anticipatory bail.



3. Learned counsel for the petitioner has vehemently contended before this Court that there was an old enmity between both the parties and hence the petitioner has been falsely implicated in this case. He has submitted that as there was earlier a dispute between both the sides and hence there being a motive for false implication of the petitioner, no *prima facie* case for the custodial interrogation of the petitioner is made out. He has submitted that the parties have amicably resolved their outstanding issues and thus, in the facts and circumstances of the case, the petitioner deserves to be granted anticipatory bail.

4. Learned counsel for the complainant has affirmed the submissions made by learned counsel for the petitioner that the parties have amicably resolved their differences and thus he has no objection if the anticipatory bail is granted to the petitioner.

5. However learned counsel for the State has opposed the submissions made by learned counsel for the petitioner. He has submitted that the petitioner is an habitual offender, who is involved in 12 other cases of similar nature. He submits that the case is of serious nature and the compromise as contented before this Court deserves to be rejected. He has submitted that no case is made out for the grant of anticipatory bail to the petitioner, so the present petition deserves to be dismissed.

6. I have heard learned counsel for the parties and perused the record with their able assistance.

7. After hearing learned counsel for the parties and perusing the record, it is deciphered that the FIR has been lodged by the complainant wherein the specific allegations regarding the abduction of complainant and snatching of his mobile phone along with the co-accused have been made in



the FIR. The petitioner, as submitted before this Court, is involved in 12 other case and thus, he is an habitual offender. The investigation is at threshold.

8. Though it has been contended before this Court that the parties have compromised the matter, however keeping in view the gravity of offence, the Court out-rightly rejects the compromise as contended by learned counsel for the petitioner.

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 and circumstances of the present case on the anvil of law settled, no ground is made out for the grant of anticipatory bail to the petitioner and the investigation is at threshold. Hence the present petition being devoid of any merit deserves to be dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

13.08.2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No