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

CRM-M-40520-2024

Date of Decision: 27.08.2024

Dinesh

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Ankur Lal, Advocate, for the petitioner.

Mr. Saurabh Verma, Advocate for
Mr. Satish Chaudhary, Advocate, for the complainant.

Rajesh Bhardwaj, J.

1. The petitioner has approached this Court praying for grant of anticipatory bail in a case FIR No.49, dated 12.02.2024, registered under Sections 147, 149, 302, 323, 506 IPC, at Police Station Rajendra Park, Gurugram.

2. Succinctly, facts of the case are that the FIR was lodged on the statement of the complainant, namely, Mohd. Ubed Alam. It was alleged that on 11.02.2024 at about 8:30/9:00 p.m., on hearing noise the complainant came out of his room and saw that in labour camp, Shivnarayan alongwith 5-6 persons was quarreling with Avesh Alam of his village. He was saying that Avesh Alam and his persons have caused loss to him. He further alleged that Shivnarayan and his accomplices gave beating to Avesh Alam and the complainant being scared ran inside his room. Thereafter, he saw that Avesh Alam was lying dead. The Police was informed by some labourer. He further alleged that Shivnarayan and other accomplices came in car bearing registration No.HR-26 EC 9367. Prayer was made to take legal action against the accused persons. On the registration of the FIR, the investigation



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commenced and name of the petitioner also surfaced during the investigation. Apprehending arrest, the petitioner approached the Court of learned Additional Sessions Judge, Gurugram for grant of anticipatory bail, however, after hearing both the sides, the Court declined the same vide order dated 09.08.2024. Aggrieved by the same, the petitioner is before this Court praying for grant of anticipatory bail.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in the present case. He submits that neither the petitioner is named in the FIR nor any role has been attributed to him. He submits that main accused in the case is one Shivnarayan, who was arrested by the Police and it is during his interrogation, he gave the disclosure statement about the petitioner and on the basis of same, the petitioner has been arrayed as an accused in the present case. It is submitted that the disclosure statement of the co-accused in itself is not an admissible evidence. He further submits that as per the postmortem report, no major injury was found on the body of the deceased and thus, death of the deceased could be a natural one. He submits that nothing is to be recovered from the petitioner, however, he is ready to join the investigation and thus, in the facts and circumstances of the case, the petitioner be granted anticipatory bail.

4. Learned counsel for the complainant has opposed the submissions made by counsel for the petitioner and has stated that the petitioner as well as other accused have committed a heinous crime and as such he is not entitled to be granted anticipatory bail.

5. Heard.



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6. After hearing learned counsel for the parties and perusing the record, it is deciphered that the allegations were made by the complainant against one Shivnarayan who alongwith his 5-6 accomplices had given beating to the deceased and thereafter, the deceased was found dead. During the interrogation of co-accused Shivnarayan, disclosure statement about the complicity of the petitioner was made and thus, the petitioner was also arrayed as an accused. Statement of the complainant has also been recorded under Section 164 Cr.P.C., wherein, complicity of the petitioner has been deposed. Needless to say that the case in hand pertains to the offence under Section 302 IPC, where deceased has been alleged to have been given beating by Shivnarayan and his accomplices. The investigation is at threshold. Thus, free and fair investigation is essential for unfolding the mystery of the offence.

7. Hon'ble Supreme Court in **State represented by CBI Vs. Anil Sharma**, (1997) 7 SCC 187 has 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 ensconded with a favorable order under [Section 438](#) if the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disintering many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulted by a pre-arrest bail during the time he 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



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criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disinterring offences would not conduct themselves as offenders.”

8. Hon’ble Apex Court in plethora of judicial precedents including **Gurbaksh Singh Sibbia Vs. State of Punjab**, AIR 1980 SC 1632, has time and again reiterated that while considering the anticipatory bail the Court is to take into consideration the factors like gravity of offence, chances of accused tampering with the evidence and probabilities of his fleeing from justice etc. The Court should be circumspect about the impact of its decision on the society as well. The anticipatory bail is an extraordinary discretion which should be exercised in the extraordinary circumstances.

9. Weighing the facts of the case on the anvil of the law settled, it is apparent that complicity of the petitioner has been *prima facie* established. The investigation is at its threshold. Thus, granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.

10. In view of the facts and circumstances of the present case, this Court is of the opinion that the petitioner does not qualify for exercising the extraordinary power by this Court in his favour. Resultantly, the petition being devoid of any merit is hereby dismissed.

11. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

27.08.2024

sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No