



CRM-M-41955-2024

1

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

CRM-M-41955-2024 (O&M)

Date of decision: 24.09.2024

Gurjit Singh alias Daljit Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr.Arshdeep Singh Sivia, Advocate for the petitioner.

Ms. Avneet, AAG, Punjab.

GURBIR SINGH, J (ORAL)**CRM-38714-2024**

This application has been filed under Section 528 of the BNSS for placing on record MLR of Harjit Singh (Annexure P-4) and application by Sumandeep Kaur to Senior Superintendent of Police, Amritsar (Rural) (Annexure P-5).

For the reasons stated in the application, the same is allowed and documents as Annexure P-4 and P-5 are taken on record, subject to all just exceptions.

Main case:

1. The present petition has been filed under Section 482 of BNSS, 2023 for grant of anticipatory bail to the petitioner in case FIR No. 62 dated 07.07.2024 under Sections 103, 115(2), 118(1), 191(3), 190 of BNS registered at Police Station Ramdas, Amritsar Rural.



CRM-M-41955-2024

2

2. The case in question was registered on the statement of the complainant Gurbhej Singh with the allegations that on 06.07.2024 at about 9:00 P.M, he and his relative Gurdev Singh had gone to their fields on a motorcycle to check the paddy crop. On reaching there, they were checking the water with the help of torch. However, in the light of torch, the complainant Gurbhej Singh saw that Harjit Singh armed with spear, Jagjit Singh armed with *datar*, Lakha Singh armed with *datar*, Makhan Singh armed with *kirpan* and Gurjit Singh (present petitioner) armed with *dang* were present at that place. For having dispute with them, Harjit Singh gave blow with spear towards Gurdev Singh which hit left side of chest of Gurdev Singh. Gurdev Singh fell down. Gurjit Singh gave stick blows to Gurdev Singh. Then Jagjit Singh gave blow with *datar* on the left arm of the complainant. Makhan Singh gave blow with *kirpan* to the complainant. Complainant stepped towards backside to rescue himself and blow struck on the left bicep of the complainant. He raised alarm and all the assailants fled away from the spot with their respective weapons. Complainant and Mandeep Singh had taken away Gurdev Singh to the hospital where Gurdev Singh was declared as brought dead.

3. Learned counsel for the petitioner *inter-alia* submits that as per version of the prosecution, petitioner was armed with *dang*. He gave stick blows to Gurdev Singh. The injury attributed to the petitioner is simple in nature. The petitioner is ready to join the investigation. Reliance has been placed on judgments passed by Hon'ble Supreme Court in ***Gurbaksh Singh***



CRM-M-41955-2024

3

Sibbia Vs. State of Punjab, 1980(2) SCC 565; State of Rajasthan Vs. Balchand: AIR 1977 SC 2447; Gudikanti Narasimhulu Vs, Public Prosecutor, (1978) 1 SCC 240 and Dataram Singh Vs. State of Uttar Pradesh, (2018) 3 SCC 22.

4. Notice of motion.

5. Ms. Avneet, AAG, Punjab appears and accepts notice on behalf the respondent-State. A copy of the petition be supplied to her during the course of the day.

6. Mr. Karanjit Singh, Advocate also put in appearance on behalf of the complainant. He has filed his Vakalatnama in the Court today and the same is taken on record. It is argued that the petitioner and co-accused in furtherance of their common object caused injuries to Gurbhej Singh and Gurdev Singh. The other accused while armed with blunt weapons and petitioner with dang, gave blows to Gurdev Singh who succumbed to the injuries. The petitioner has actually participated in the crime.

6. I have heard the submissions of learned counsel for the parties.

7. At the time of considering the anticipatory bail, the Court is required to consider factors such as the nature and the gravity of the offence, the role attributed to the petitioner and the specific facts of the case. Reliance is placed on *Pratibha Manchanda and another Versus State of Haryana and another, 2023(3) RCR (Criminal) 511*. The extract of said judgment reads as under:-



“17. In *Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694*, this Court carefully considered the principles established by the Constitution Bench in *Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565* case. After a thorough deliberation, this court arrived at the following conclusion:

"112. The following factors and parameters can be taken into consideration while dealing with anticipatory bail:

- (i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;
- (ii) The antecedents of the applicant including the fact as to whether the accused 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;
- (iv) The possibility of the accused's likelihood to repeat similar or other offences;
- (v) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;
- (vi) Impact of grant of anticipatory bail, particularly in cases of large magnitude affecting a very large number of people.

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18. In *Sushila Aggarwal Versus State (NCT of Delhi), (2018) 7 SCC 731*, the Constitution Bench reaffirmed that when considering applications for anticipatory bail, courts should consider factors such as the nature and gravity of the offences, the role attributed to the applicant, and the specific facts of the case.

19. The relief of Anticipatory Bail is aimed at safeguarding individual rights. While it serves as a crucial tool to prevent the misuse of the power of arrest and protects innocent individuals from harassment, it also presents challenges in maintaining a delicate balance between individual rights and the interests of justice. The tight rope we must walk lies in striking a balance between safeguarding individual rights and protecting public interest. While the right to liberty and presumption of innocence are vital, the court must also consider the gravity of the offence, the impact on society, and the need for a fair and free investigation. The court's discretion in weighing these interests in the facts and circumstances of



CRM-M-41955-2024

5

each individual case becomes crucial to ensure a just outcome.”

8. In the instant case, injuries were caused to deceased Gurdev Singh in furtherance of common object of unlawful assembly. The petitioner actually participated in the crime and also gave dang blow on the deceased. No doubt, the cause of death is due to injuries to left lung and heart, but investigation is going on. So, custodial interrogation of the petitioner is necessary.

9. In the light of above discussion, this Court is of the view that it is not a case where the petitioner is entitled for grant of anticipatory bail. Accordingly, the present petition is dismissed.

10. Anything observed hereinabove shall have no effect on the merits of the case as it is only for the purpose of deciding the present petition.

(GURBIR SINGH)
JUDGE

24.09.2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No