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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Sr. No.218

CRM-M-43735-2024 (O&M)
Date of decision : 22.10.2024

Mohit @ Mohit Grati Petitioner

VERSUS

State of Haryana Respondent

CORAM: HON’BLE MS. JUSTICE KIRTI SINGH

Present: Mr. P.S. Jammu, Advocate, for the petitioner.
Mr. Gaurav Bansal, DAG, Haryana.
Mr. Kushager Goyal, Advocate, for the complainant.

KIRTI SINGH, J. (Oral)

1. Apprehending his arrest, the petitioner has filed this petition under Section 482 of BNSS, 2023 for grant of anticipatory bail in case FIR No.747 dated 06.11.2023, under Sections 148, 149, 324, 341, 367, 395 and 506 IPC, registered at Police Station City Sirsa, District Sirsa.
2. Learned counsel for the petitioner *inter alia* submits that it is alleged that the petitioner along with co-accused had attacked the complainant in a secluded place. It is further contended that as per MLR, there are three injuries on the person of the complainant and none of them are attributed to the petitioner.
3. On the other hand, learned counsel for the complainant has vehemently opposed the petition for grant of anticipatory bail to the petitioner and has stated that the petitioner and co-accused had not only beaten the complainant mercilessly but had also uploaded the video on social media and had also inflicted severe injuries on the right hand of the

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complainant. He submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of anticipatory bail.

4. Heard the rival submissions made by learned counsel for the parties.

5. In **Siddharam Satlingappa Mhetre v. State of Maharashtra 1, (2011) 1 SCC 694**, Hon'ble Supreme Court 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, the 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.

6. In **Sushila Aggarwal v. 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

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gravity of the offences, the role attributed to the applicant, and the specific facts of the case.

7. In **Jai Prakash Singh Vs. State of Bihar and another : (2012) 4 SCC 379**, Hon'ble Supreme Court held that anticipatory bail can be granted only in exceptional circumstances where the court is *prima facie* of the view that the applicant(s)-petitioner(s) has falsely been enroled in the crime and would not misuse his liberty.

8. In **P. Chidambaram Vs. Directorate of Enforcement (SC) : 2019(4) R.C.R.(Criminal) 875** Hon'ble Supreme Court observed as under :

“67. Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. Power under Section 438 Cr.P.C., 1973 is an extraordinary power and the same has to be exercised sparingly. The privilege of the prearrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy.”

9. 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

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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 each individual case becomes crucial to ensure a just outcome.

10. In view of the above discussion, this Court is of the considered opinion that there are serious allegations against the petitioner. Further, the petitioner has also inflicted severe injuries on the person of the complainant and the act was uploaded on social media platform as an attempt to create fear in the mind of the society.

11. Therefore, this Court is of the considered opinion that the petitioner is not entitled for the concession of anticipatory bail and, accordingly, the petition is dismissed.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

22.10.2024
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No