



CRM-M-44571-2024

1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

202

CRM-M-44571-2024

Date of decision: 25.11.2024

Jarman Singh

...Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Amandeep Singh Manaise, Advocate for the petitioner.
Mr. Anup Singh AAG Punjab.
Mr. Vipin Mahajan, Advocate for the complainant.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 482 of Bharatiya
Nagarik Suraksha Sanhita, 2023 (hereinafter to be referred as 'the BNSS')
for grant of anticipatory bail to the petitioner in case bearing FIR No.102
dated 16.06.2024, registered for the offences punishable under Sections 354,
506 of IPC at Police Station Beas, District Amritsar Rural.
2. The case set up in the FIR in question (as set out in the petition
by the petitioner) is as follows:-

*“Statement of Ravneet Kaur daughter of Sukhjinder Singh resident of
Ballarwal, PS Ghuman, aged about 18 years, mobile No.79736-86682,
Stated that I am a resident of the above said address and I have passed
10+2 class. After studies, I was undergoing IELTS coaching one month
back at IELTS Centre Butala. On 07.06.2024 at about 9.30 AM, I de-
boarded the bus and was going towards IELTS Centre, Butala when
Jerman Singh son of Sukhwinder Singh resident of Ballarwal, PS Ghuman
stopped my way and took away my phone from my hand and started doing
immoral acts with me and he held my arm and rubbed my breast. When I
opposed this and raised cries, then Jerman Singh fled away from the spot
on his motorcycle while threatening to kill me. Later, he went to the
Centre and said to the teacher that I have an affair with Ravneet Kaur and*



CRM-M-44571-2024

2

allow me to meet her. When the teachers declined his request, then he went away. Our rape case is already pending against above said Jerman Singh in the Hon'ble Court and now Jerman Singh is on bail. Uptil today, I did not talk in this regard to my family members due to fear of insult. Today, I narrated the entire story to my mother, who said that we must inform the police. Today, I along with my mother Kulwinder Kaur have come present before you. Kindly take legal action against Jerman Singh son of Sukhwinder Singh resident of Ballarwal.”

3. Learned counsel for the petitioner has iterated that the allegations raised against the petitioner are baseless, false and entirely frivolous with no factual foundation. It has been further iterated that there is an unexplained and inordinate delay of 09 days in lodging the instant FIR. According to learned counsel, the alleged occurrence purportedly took place on 07.06.2024, whereas the FIR was lodged on 16.06.2024 and hence such a significant delay, without any plausible explanation, raises serious doubts regarding the authenticity, credibility and *bona fides* of the version of the complainant. Learned counsel asserts that the instant FIR is a counterblast to the FIR lodged by the family of the petitioner against the father of the complainant. Learned counsel has highlighted that four members of the family of the petitioner were brutally murdered by the father and uncle of the complainant and consequently FIR No.71 dated 04.07.2021 (Annexure P-2) was registered against the father, uncle and mother of the complainant. It has been next submitted by learned counsel that the instant FIR has been lodged with the malicious intent of preventing the family of the petitioner from deposing as witnesses in the said murder case. The complainant, in collusion with the accused in the murder case and in a bid to extract revenge, has falsely implicated the petitioner in a fabricated FIR which was registered after an unexplained delay of 09 days. Furthermore, the alleged occurrence



CRM-M-44571-2024

3

is claimed to have taken place in a public place. However, it is highly improbable that no one intervened to assist the complainant or that the police was not immediately informed. The unexplained delay in filing the FIR further casts a shadow of doubt on the veracity of the allegations and the complainant's narrative. It is next submitted by the learned counsel that no recovery is to be effected from the petitioner or at his instance and he is not required for the purpose of custodial interrogation and hence in these circumstances when the petitioner is ready to join the investigation, no useful purpose would be served by sending him behind the bars. It is further submitted that the paramount consideration of bail is the availability of the petitioner to face trial, and in the instant case, there could be no such apprehension about the petitioner evading his trial and thus, the benefit of anticipatory bail be extended to the petitioner.

4. *Per contra; the* learned State counsel has opposed the grant of anticipatory bail to the petitioner by arguing that the offence committed by the petitioner is serious in nature. According to the learned State counsel, the petitioner is alleged to have outraged the modesty of the complainant by touching her chest while she was on her way to attend her IELTS class. The evidence against the petitioner primarily consists of the oral statement of the prosecutrix recorded under Section 161 of Cr.P.C., 1973 by the investigating officer, which is corroborated by her statement recorded under Section 164 of Cr.P.C., 1973 before the Magistrate. Furthermore, the petitioner is also found to be involved in an another FIR No.74 dated 07.02.2020 registered under Sections 376-D(A), 451/34 of IPC, registered at Police Station Ghuman, Police District Batala. Given the seriousness of the allegations and



CRM-M-44571-2024

4

the gravity of the offence, the petitioner is not entitled to the concession of pre-arrest bail. Moreover, in order to elicit the truth, custodial interrogation of the petitioner would be necessary and hence dismissal of the anticipatory bail is prayed for.

5. Learned counsel appearing for the complainant has vociferously opposed the grant of anticipatory bail to the petitioner. Learned counsel has submitted that the complainant was harassed and teased by the petitioner and other co-accused. According to learned counsel, earlier the petitioner alongwith co-accused had abducted the complainant and, thereafter, gang-raped her on the intervening night of 03/04.07.2021 and regarding which FIR No.74 dated 07.07.2021 under Section 376-DA, 451 of IPC and Section 6 of POCSO Act was registered against the petitioner and co-accused. According to him, in case the petitioner is enlarged on bail, it would in fact affect the proper investigation of the case and therefore, he does not deserve the concession of pre-arrest/anticipatory bail.

6. I have heard counsel for the rival parties and have gone through the available records of the case.

7. It would be apposite to refer herein to a judgment of the Hon'ble Supreme Court titled as ***Kishor Vishwasrao Patil vs. Deepak Yashwant Patil and another*** passed in ***SLP(Crl) No.1125-2022***, relevant whereof reads as under:

“74. Ordinarily, arrest is a part of the process of the investigation intended to secure several purposes. There may be circumstances in which the accused may provide information leading to discovery of material facts and relevant information. Grant of anticipatory bail may hamper the investigation. Pre-arrest bail is to strike a balance between the individual's right to personal freedom and the right of the investigating



*agency to interrogate the accused as to the material so far collected and to collect more information which may lead to recovery of relevant information. In **State v. Anil Sharma** [**State v. Anil Sharma, (1997) 7 SCC 187 : 1997 SCC (Cri) 1039**], the Supreme Court held as under : (SCC p. 189, para 6)*

“6. We find force in the submission of CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well-ensconced with a favourable 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.

*75. Observing that the arrest is a part of the investigation intended to secure several purposes, in **Adri Dharan Das v. State of W.B.** [**Adri Dharan Das v. State of W.B., (2005) 4 SCC 303 : 2005 SCC (Cri) 933**], it was held as under : (SCC p. 313, para 19)*

“19. Ordinarily, arrest is a part of the process of investigation intended to secure several purposes. The accused may have to be questioned in detail regarding various facets of motive, preparation, commission and aftermath of the crime and the connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to discovery of material facts. It may be necessary to curtail his freedom in order to enable the investigation to proceed without hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his disappearance, to maintain law and order in the locality. For these or other reasons, arrest may become an inevitable part of the process of investigation. The legality of the proposed arrest cannot be gone into in an application under Section 438 of the Code. The role of the investigator is well defined and the jurisdictional scope of interference by the court in the process of investigation is limited. The



court ordinarily will not interfere with the investigation of a crime or with the arrest of the accused in a cognizable offence. An interim order restraining arrest, if passed while dealing with an application under Section 438 of the Code will amount to interference in the investigation, which cannot, at any rate, be done under Section 438 of the Code.”

76. In **Siddharam Satlingappa Mhetre v. State of Maharashtra** [**Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694 : (2011) 1 SCC (Cri) 514**], the Supreme Court laid down the factors and parameters to be considered while dealing with anticipatory bail. It was held that the nature and the gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made and that the court must evaluate the available material against the accused very carefully. It was also held that the court should also consider whether the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.

77. After referring to **Siddharam Satlingappa Mhetre** [**Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694 : (2011) 1 SCC (Cri) 514**] and other judgments and observing that anticipatory bail can be granted only in exceptional circumstances, in **Jai Prakash Singh v. State of Bihar** [**Jai Prakash Singh v. State of Bihar, (2012) 4 SCC 379 : (2012) 2 SCC (Cri) 468**], the Supreme Court held as under : (SCC p. 386, para 19)

“19. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroled in the crime and would not misuse his liberty. (See **D.K. Ganesh Babu v. P.T. Manokaran** [**D.K. Ganesh Babu v. P.T. Manokaran, (2007) 4 SCC 434 : (2007) 2 SCC (Cri) 345**], **State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain** [**State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain, (2008) 1 SCC 213 : (2008) 1 SCC (Cri) 176**] and **Union of India v. Padam Narain Aggarwal** [**Union of India v. Padam Narain Aggarwal, (2008) 13 SCC 305 : (2009) 1 SCC (Cri) 1**].)”

Economic offences

78. Power under Section 438 CrPC being an extraordinary remedy, has to be exercised sparingly; more so, in cases of economic offences. Economic offences stand as a different class as they affect the economic fabric of the



society. In Directorate of Enforcement v. Ashok Kumar Jain [Directorate of Enforcement v. Ashok Kumar Jain, (1998) 2 SCC 105 : 1998 SCC (Cri) 510], it was held that in economic offences, the accused is not entitled to anticipatory bail.”

15. In Sushila Agrawal and others v. State (NCT of Delhi) and Another reported in (2020) 5 SCC 1, Constitution Bench of this Court held that while considering an application for grant of pre-arrest 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 or likelihood of fleeing justice. The Court held:-

“92.4. Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion; equally whether and if so, what kind of special conditions are to be imposed (or not imposed) are dependent on facts of the case, and subject to the discretion of the court.”

8. As per the allegations put forth in the FIR in question, it is indubitable that serious allegations have been levelled against the petitioner. The complainant/victim is alleged to have levelled grave and specific allegations against the petitioner of outraging her modesty and threatening her with dire consequences. Furthermore, the petitioner is stated to have been involved in another FIR (i.e. FIR No.74 *ibid*) and the trial of the said case is pending before the Sessions Court, Gurdaspur. The record demonstrates that the petitioner, who is facing trial in the aforementioned case, has absconded from the Court proceedings and has willfully misused the concession of bail granted to him earlier. Instead of complying with the legal process, the petitioner has engaged in harassing and intimidating the complainant with the apparent intent of pressurizing her not to depose as a witness in the aforesaid trial. The conduct of the petitioner reflects a blatant



disregard for the law and demonstrates a likelihood of habitual criminal behavior. Moreover, the stand of the State before this Court is that the given the seriousness of the allegations, coupled with the past conduct of the petitioner, there is high probability that he may repeat such act in the future, thereby endangering public safety. Additionally, there is a substantial risk of the petitioner tampering with the material evidence and influencing witnesses, which would adversely affect the fair administration of justice, in case the petitioner is extended the concession of anticipatory bail at this stage. It is a well established principle of law that the concession of bail cannot be extended to an individual who poses a threat to the integrity of the judicial process and the safety of witnesses.

8.1 It is befitting to mention here that the offence of such magnitude must be properly investigated and truth must be brought on record. Moreover, while considering a plea for grant of anticipatory bail, the Court has to equilibrate between safeguarding individual rights and protecting societal interest(s). The Court ought to reckon with the magnitude and nature of the offence; the role attributed to the accused; the need for fair and free investigation. At this stage, there is no material on record to hold that *prima facie* case is not made out against the petitioner or the petitioner has been falsely implicated in the case. The nature and gravity of the offence, the role attributed to the petitioner essentially lead to unequivocal conclusion that the petitioner does not deserve the concession of anticipatory bail. It goes without saying that in the instant case, the complainant/victim has categorically stated that she was physically abused, molested and threatened by the petitioner and hence it is not appropriate to grant



CRM-M-44571-2024

9

anticipatory bail, as it would necessarily cause impediment in effective investigation. The argument raised by the learned counsel for the petitioner that no recovery is to be effected from the petitioner-accused and hence he ought to be granted the benefit of anticipatory bail on this score alone, is a mis-placed argument especially, in light of the nature, severity and seriousness of allegations levelled against the petitioner. It would be apposite to refer herein to a judgment passed by Hon'ble Supreme Court titled as ***Sumitha Pradeep vs. Arun Kumar C.K. & anr., 2022 LiveLaw (SC) 870***; relevant whereof reads as under:-

“15. Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

16. We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial



interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

Accordingly, this Court is of the considered opinion that the petitioner does not deserve the concession of anticipatory bail. Moreover, custodial interrogation of the petitioner is necessary for an effective investigation & to unravel the truth. The petition is, thus, devoid of merits and is hereby dismissed.

9. Any observations made and/or submissions noted hereinabove shall not have any effect on the merits of the case and the investigating agency as also the trial Court shall proceed further, in accordance with law, without being influenced with this order.

10. Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

November 25, 2024
Ajay

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