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

**CRM-M No.48989 of 2024
Date of Decision: 30.09.2024**

Jaspal Rai

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Davinder Singh, Advocate
for the petitioner.

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.63, dated 26.07.2024 (Annexure P-1), under Sections 309(6), 61(2) of the Bhartiya Nyaya Sanhita, 2023, registered at Police Station Behram, District Shaheed Bhagat Singh Nagar. Further prayer has been made for staying the arrest of the petitioner during the pendency of the present petition.
2. Succinctly the facts of the case are that a complaint was lodged by the complainant, namely, Harinder Singh wherein it was alleged that on 25.07.2024 at about 9.30 p.m., when he was returning



to his village from village Talwandi Jattan, then three young persons came from behind and caught hold of him. He was caused injuries with the *khanda* and *Dandas*. His gold chain and gold earrings were snatched and one mobile phone was also snatched. On raising the alarm, they ran away. The request was made to take the legal action against the culprits. During the investigation, name of the petitioner surfaced in this FIR. Hence apprehending his arrest, the petitioner approached the Court of learned Additional Sessions Judge, SBS Nagar praying for the grant of anticipatory bail. However after hearing both the sides, the learned Additional Sessions Judge, SBS Nagar finding no merit, dismissed the same vide his order dated 11.09.2024. Hence being aggrieved the petitioner is before this Court by way of filing the present petition for the grant of anticipatory bail.

3. Learned counsel for the petitioner has submitted that the FIR has been lodged against the unknown persons and thus, it is evident that the petitioner is not named in the FIR. He has submitted that there is a delay of one day in lodging the FIR. He has submitted that the petitioner has been arrayed as an accused in the present case on the basis of the supplementary statement, which is not an admissible evidence. He has submitted that co-accused, namely, Parminder Singh has been granted regular bail and thus, the petitioner deserves to be granted anticipatory bail.

4. Notice of motion.



5. On asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of the respondent-State. He however has opposed the submissions made by learned counsel for the petitioner. He has submitted that complicity of the petitioner has been found during the investigation. Co-accused, namely, Parminder Singh has been arrested and granting anticipatory bail to the petitioner would scuttle the on going investigation. He has thus submitted that the petition being devoid of any merit deserves to be dismissed.

6. Heard.

7. On hearing learned counsel for the parties and perusing the record, it is evident that the complainant made the supplementary statement vide GD No.16 dated 25.08.2024 wherein name of the petitioner was disclosed regarding snatching of the mobile phone, gold chain and earrings. Besides this, he had given the injuries by the accused. The case is already under investigation. The allegations made by the complainant are of serious nature.

8. For the consideration of anticipatory bail, the statutory parameters are given under Section 482(2) of Bharatiya Nagarik Suraksha Sanhita, 2023 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 an 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; and that Court may, if it thinks fit, direct that



in the event of such arrest, he shall be released on bail.

(2) When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of Section 480, as if the bail were granted under that Section.

9. 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.

10. 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.

11. Weighing the facts of the case on the anvil of the law settled, it is apparent that the complicity of the petitioner has been prima facie found. The investigation is at its threshold. During the investigation, the allegations made are found to be serious in nature.



Thus, granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.

12. In view of the overall facts and circumstances of the case, the petitioner does not qualify for the grant of anticipatory bail and the same is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

30.09.2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No