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

**CRM-M No.50126 of 2024
Date of Decision: 15.10.2024**

Ram

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Paras Jagga, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

1. Present petition has been filed under Section 482 of BNSS, 2023 praying for the grant of anticipatory bail to the petitioner in case FIR No.0432, dated 06.08.2020, under Sections 379-B of IPC, 1860 and Section 25 of Arms Act, 1959 and Sections 395, 397, 201, 120-B of IPC (added later on), registered at Police Station Pehowa, District Kurukshetra (Annexure P-1). 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 the complainant, namely, Jasbir Singh son of Randhir Singh, who is a liquor contractor, lodged a complaint with the police on the allegations that he and his



fellow contractors employed Vicky son of Jaipal as servant. Last night, he received a call from Vicky on his mobile, who told him that 06 boys came to the liquor shop and took away a car consisting of 25 boxes and money from the counter after beating him. On hearing the same, he reached the liquor shop. He was told that at about 12.30/1.00 in the night, Dilpreet Khan and Navdeep resident of Patiala came to the liquor shop. Navneet told him that he need 25 crates of liquor. At that time, a car brand Pajero arrived there and 04 boys came out of that car. One of the boys had a pistol and another had a knife. All those boys entered the shop and beated him up and took away Rs.70,000/- from the cash box. His mobile phone brand Samsung black coloured was also taken away by them. They also looted his black purse in which Rs.1000, Pan card, voter card, driving licence and Aadhar card were there. After committing theft, they fled away from the spot. The request was made to take the legal action against the accused. On the basis of the complaint, the FIR was registered and the investigation commenced. During the investigation, name of the petitioner surfaced as an accused and hence apprehending his arrest, the petitioner approached the Court of learned Additional Sessions Judge, Kurukshetra praying for the grant of anticipatory bail. However on hearing both the sides, the learned Additional Sessions Judge, Kurukshetra finding no merit, dismissed the same vide his order dated



03.09.2024. 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 vehemently contended that the petitioner has been falsely implicated in the present case. He has submitted that name of the petitioner has been arrayed as an accused in the present case on the basis of disclosure statement made by the co-accused, which is not an admissible evidence. He has submitted that the FIR pertains to the year 2020 and the police has falsely involved the petitioner in the present case. He has submitted that the co-accused, namely, Dilpreet Khan and Sahil have been granted the concession of regular bail by this Court in CRM-M No.35093 of 2024 and CRM-M No.46571 of 2021 vide orders dated 24.11.2021 and 01.02.2022, respectively. He thus submits that the petitioner deserves the grant of anticipatory bail.

4. Per contra, learned counsel for the State has opposed the submissions made by learned counsel for the petitioner. He has submitted that complicity of the petitioner has been surfaced during the investigation. He has submitted that despite best efforts, the petitioner could not be arrested till date as he is avoiding arrest. He has submitted that no case for the grant of anticipatory bail is made out, and thus the same be declined.

5. Heard.



6. On hearing learned counsel for the parties and perusing the record, it is deciphered that the allegations have been levelled by the complainant wherein 25 boxes of liquor and cash, mobile phone etc. at gun point have been looted by the petitioner along with the co-accused. The co-accused were arrested, however two of the accused have been granted the concession of regular bail by this Court. The petitioner is avoiding his arrest till date.

7. For the consideration of anticipatory bail, the statutory parameters are given under Section 482(2) BNSS 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 that in the event of such arrest he shall be released on bail; and that Court may, after taking into consideration, inter alia, the following factors, namely:-*
- (i) *the nature and gravity of the accusation;*
 - (ii) *the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognisable offence;*
 - (iii) *the possibility of the applicant to flee from justice; and*
 - (iv) *where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested, either reject the application forthwith or issue an interim order for the grant of anticipatory bail.*

8. 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.

9. 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.

10. 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. The allegations made during the investigation are found to be serious. Thus, granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.

11. In view of the overall facts and circumstances of the case, the petitioner do 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

15.10.2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No