



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-49397-2024

Date of decision: 01.10.2024

Rachna

....Petitioner

V/s

The State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Abhinav Aggarwal, Advocate for the petitioner.
Ms. Mahima Yashpal, DAG Haryana.

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.0367
dated 09.06.2024, registered for the offences punishable under Sections 304-
B, 34 and 498-A of Indian Penal Code, 1860 at Police Station Mujesar,
District Faridabad.
2. The case set up in the FIR in question (as spelt out in the
petition by the petitioner) is as follows:-

*“To, Chowki In-charge, Sanjay Colony, Faridabad, Sir, I request that I
Manoj Kumar, son of Sh. Vijendra Singh, resident of village Parsolii,
Tehsil Thana Nauhheel, Bajna, District Mathura. I currently live in Rajiv
Colony, near Kanchan School. I have three daughters and one son. My
younger daughter's name is Palak. I married her about 3 years ago with
Kaushal, son of Sh. Dharmveer, resident of near K.K. School, Durga
Colony, Faridabad. Kaushal used to demand dowry from me, and on
denial, he used to beat my daughter. Today, on 09.06.24, at around 3 AM
in the morning, I got information through phone that my daughter Palak
has strangled herself. She is admitted for treatment in ESI Hospital No. 3,
NIT, Faridabad. When I reached ESI Hospital, I saw that my Palak had
died. I have full suspicion that my daughter's husband Kaushal and her*



mother-in-law Rachna killed her in greed for dowry. I have recognised my daughter's dead body kept in ESI Hospital No 3- NIT. Legal action should be taken against the above mentioned persons. Applicant SD/- Manoj Kumar Dated 09.06.24”

3. Learned counsel for the petitioner has argued that from the very narrative of the FIR, no specific role has been attributed to the petitioner. Learned counsel has highlighted that despite the allegations of demand of dowry and beatings within the three years of marriage, neither the complainant nor his daughter, Palak (deceased), made any complaint against the petitioner or her son (co-accused). According to the learned counsel, from the verbal allegations, it is evident that the same are an afterthought by the complainant and there is no direct evidence against the petitioner. Learned counsel further asserts that the complainant, in connivance with the Police, has arbitrarily implicated the petitioner in the present case in a bid to extract revenge. Furthermore, the gravity of offence alleged against the petitioner is insufficient and lack the necessary credibility which raises significant doubts about the narrative put forth by the complainant. In order to harass and humiliate the petitioner, the complainant has concocted a false and fabricated story. Learned counsel has further submitted that during the course and upon completion of the investigation, the co-accused namely Kaushal (husband of the deceased) has been arrested and challan has been presented against him before the competent Court of jurisdiction. It is next submitted by the learned counsel that the petitioner 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 her behind the bars. It is further submitted that the



trial, and in the instant case, there could be no such apprehension about the petitioner evading her trial as she has a fixed abode. It is lastly submitted that the petitioner, being a lady and without any substantial piece of evidence on record against her, be extended the benefit of anticipatory bail.

4. On the strength of the advance notice, 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, there are specific allegations against the petitioner that she alongwith co-accused (her son and husband of the deceased) used to harass and gave beatings to the deceased namely Palak. Accordingly, in order to elicit the truth, the custodial interrogation of the petitioner would be necessary and hence dismissal of the anticipatory bail is prayed for.

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

6. 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.”

7. 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 is alleged to have levelled specific allegations of demand of dowry and of beatings given to the deceased. The petitioner, who is the mother-in-law of the deceased, Palak, along with co-accused Kaushal (husband of the deceased), subjected the deceased Palak to physical and emotional harassment, which ultimately contributed to her tragic and unnatural death. The allegations/material clearly indicates sufficient cause against the petitioner indicating her involvement in the alleged incident.

7.1 It is befitting to mention here that, given the severity of the allegations as also the nature of the conduct attributed to the petitioner, this Court is of the considered opinion that offence of such magnitude must be properly investigated and the truth must be brought on record. Moreover, while considering a plea for the grant of anticipatory bail, 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 there is no direct evidence against the petitioner. The nature and



gravity of the alleged offence and the specific role ascribed 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 has categorically stated that his daughter (deceased) was continuously harassed, beaten and threatened by the petitioner on account of dowry which ultimately took her life, it is not appropriate to grant anticipatory bail, as it would necessarily cause impediment in effective investigation. The argument raised by the learned counsel for the petitioner that the petitioner has been falsely implicated in the present case and hence not required for custodial interrogation, is a misplaced 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 AIR Supreme Court, 5705; 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.

8. 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.

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

(SUMEET GOEL)
JUDGE

October 01, 2024
Ajay

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