



**CRM-M-53579-2024 and
CRM-M-53751-2024**

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

CRM-M-53579-2024

Date of decision: November 12, 2024

LUCKY DHIMAN

....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CRM-M-53751-2024

PUSHPENDER KUMAR

....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present:- Mr. Jagjeet Singh, Advocate for the petitioner(s).

Mr. R.S Thind, DAG, Punjab.

KIRTI SINGH, J. (Oral)

By way of this common judgement, two petitions bearing CRM-M-53579-2024 (Lucky Dhiman Vs. State of Punjab) and CRM-M-53751-2024 (Pushpender Kumar Vs. State of Punjab) shall be decided. For the sake of convenience, facts have been extracted from CRM-M-53579-2024.

1. Apprehending arrest, the petitioners have filed this petition under Section 482 of BNSS for grant of anticipatory bail in case bearing FIR No.45 dated 05.03.2024 under Sections 323, 342, 294, 295-A, 147 and 149 of IPC registered at Police Station Jamalpur, Distt. Police Commissionerate Ludhiana.



**CRM-M-53579-2024 and
CRM-M-53751-2024**

The facts in brief as stated in the FIR is reproduced as under:

“Statement of Sahib Singh son of Sarabjit Singh resident of house no. 53, Gali no. 03 Guru Arjun Dev Nagar Samrala Chownk Ludhiana aged about 26 years, Phone No. 62843-71216, stated that I am the resident of above mentioned address and doing the work of account, I belong to Christian religion. We have purchased 350 square yard land in June 2023 at Mohala Raju Colony near Garewal Petrol Pump, Tajpur Road Ludhiana at where we have constructed our Church due to this a person namely Lokesh residing opposite to Church in the Mohala having grudge against us, whenever we have a Satsang, then he always alongwith some male and some ladies of Mohala disturbed us and disturb the Satsang. Some time due to this behavior of them we have stopped our Satsang due to this we have installed CCTV cameras in our Church. Lokesh have installed Sewing Machine in his house, where he always used to play music in high sound and disturbed us due to this we have given complaint to police against them. We always day-night three to four persons staying at church for the safety of church. On dated 01.03.2024 when I and Rahul Kumar son of Shatrudhan resident of tenant house of Ravinder Singh Gali No: 01 House no. 373 Guru Arjun Dev Nagar Samrala Chownk Ludhiana present at church, then



**CRM-M-53579-2024 and
CRM-M-53751-2024**

we see at the CCTV Camera of church, one white color KIA car bearing no. PB-10-JJ-4644 stopped outside the church, we think that our Pastor come, then I went outside church and see inside the car Jatinder Gorian son of Sant Ram resident of Rasila Nagar Jamalpur Ludhiana and three to four unknown person were there, then I stopped at the gate of our church. Meantime Lokesh and the ladies member of the house of Lokesh came outside of their house and started abuses to me. Jatinder Gorian told me that now we will see how you have constructed your church here, he started speak bad words to our Christian religion and hit upon my stomach, meanwhile all gathered there and Jatinder Gorian, Lokesh and person of our mohala namely as Pandit forcefully taken me inside the house of Lokesh at where except them other persons were gathered there from them brother of Lokesh, younger son of Lokesh namely Lucky, daughter of Lokesh, wife of Lokesh, wife of Pandit, one Pardhan who called as Mata ji, Akas who have dogs and other three to four unknown ladies and four five unknown mans came inside the house of Lokesh. Jatinder Gorian insert cloth inside my mouth, then Jatinder Gorian told to the whole ladies to spit on his mouth, wife of Lokesh and other ladies use to spit on my mouth and said now call your god now say haleluia. Jatinder Gorian and his other



**CRM-M-53579-2024 and
CRM-M-53751-2024**

associate started given leg blew to me when whole ladies gone outside the house, then Jatinder Gorian fallen me on the ground and put his foot on my mouth so that I am not get up and lokesh and his other associate stated given foot blew on my stomach and said that cut him, then Jitinder Gorian said that do urinated in his mouth, then whole male stated urine on my mouth. My fellow namely Rahul came inside to save me then they all stated bating to him then two ladies of our church some how came inside and saved me from them they also insulted our ladies they also used bad words to our ladies. When they get me outside the Lokesh home, I became unconscious when I became stable, then I am at civil hospital at where doctor keep me for one hours in a hospital after my medical they send me to the my house. My mental condition is not stable due to that I am not able to record above said statement to you. Today alongwith Lakhbir Chand son of Chain ram resident of colony house no 77 Jagir Pur Ludhiana came present before you and written my this statement before you, read and heard, it is correct, take action.”

2. Counsel for the petitioners inter alia submits that the petitioners have been falsely implicated in this case. He further submits that no specific role has been attributed to the petitioners and there is a delay of 4 days in registration of the FIR.



**CRM-M-53579-2024 and
CRM-M-53751-2024**

3. Per contra, learned State counsel has placed reliance upon the status report and argued that there are serious allegations against the petitioner. It is alleged that the allegations against the petitioners are that they along with the co-accused thrashed the complainant and even urinated upon him. The complainant was beaten up by all the accused including the petitioners. It is further submitted that the petitioners have been specifically named in the present FIR and the petitioners can be duly seen in the CCTV footage while committing the crime at the spot, which has been given by the complainant in the USB pen drive. He further submits that the petitioner-Lucky Dhiman is also involved in another case FIR No.126 dated 19.05.2022 under Sections 452, 323, 324, 341, 506, 427, 148, 149 IPC registered at Police Station Jamalpur

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



**CRM-M-53579-2024 and
CRM-M-53751-2024**

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 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



**CRM-M-53579-2024 and
CRM-M-53751-2024**

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 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. There are serious allegations levelled against the petitioners, the petitioners were one of the members of the unlawful assembly and actively participated in the crime. They have specifically been named in the FIR. Their



**CRM-M-53579-2024 and
CRM-M-53751-2024**

presence has been recorded in the CCTV footage of the alleged occurrence. There is also another case registered against petitioner-Lucky Dhiman. Accordingly to unearth the true dimension of the alleged crime, this Court is of the view that the petitioners are not entitled to the concession of anticipatory bail.

11. In view of all that has been discussed above, present petition is hereby dismissed.

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

November 12, 2024
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**(KIRTI SINGH)
JUDGE**

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