

CRM-M-53702-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-53702-2024

Decided on : 02.12.2024

Rohit

. . . Petitioner

Versus

State of Punjab

. . . Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. Vipin Mahajan, Advocate
for the petitioner

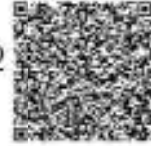
Mr. Vinay Kumar Malhotra, DAG Punjab

KIRTI SINGH, J. (Oral)

1. Apprehending arrest in FIR No.146 dated 13.07.2023, under Sections 326, 427, 341, 506, 148 and 149 IPC registered at Police Station City Gurdaspur, District Gurdaspur, the petitioner-Rohit has preferred this petition under Section 482 Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of anticipatory bail.

2. The contents of the above-mentioned FIR are reproduced herein below :-

“Statement of Mohan Lal S/o Ishar Dass R/o BSF Chowk, near Shani Devta Mandir Gurdaspur aged 63 years(M) 9877056948. Stated that I am resident of aforesaid address and got retired as Bank Manager from Punjab National Bank. Today in the afternoon my son Rajan, aged 23 years who has gone for a hair cut at Pamma Saloon, near Kuldeep Gun House, G.T Road Gurdaspur. I was waiting for him for quite sometime but he did not return back, so I went to search CRM-M-48267-2024 (O&M) 2 for him at the saloon. At 03:40 PM, when I reached near the Saloon, then my son was about to return back home



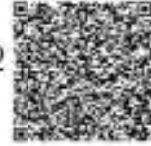
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in his white coloured Hyundai Grand 1-10 car bearing PB-06-BC-2341. Then a white colored Bolero Car bearing PB-03AF9551 came from behind which hit the car of my son. In order to save himself, my son got down from the car and ran towards the street going to the Saloon. Then Rohit ® Thanki S/o Bittu R/o Bariar, Preet S/o Attu R/o Bariar, Abhi So Shiv Kumar R/o ITI Colony, Kunal S/o Unknown R/o ITI Colony and Thangal R/o Babowal and 2-3 unknown person armed with baseball and datar attacked my son on right arm and chopped off his wrist in my presence. They also attacked him on his head and also inflicted injuries on other parts of the body. On raising Raula, all the aforesaid accused ran away from the spot with their weapons while threatening. While going, they also damaged our car. Then, I arranged the vehicle and took my son Rajan to Deepak Ortho Medical Centre, Gurdaspur and admitted him there. The doctor has not issued the MLR as of now. The cause of grievance that the accused earlier also had a fight with my son and regarding which my son also knows. Sd/- Mohal Lal (signed) in English, attested Sd/- Raj Mash ASI, P.S City Gurdaspur dated 13.07.2023. ”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case and his name is not mentioned in the FIR. It is contended that the police are trying to link the petitioner to a person named “Thangal” whose name is mentioned in the FIR, and this is a clear case of mistaken identity. Furthermore, it was submitted that there is no direct evidence to prove the petitioner’s involvement in the alleged offence.

4. Per contra, learned State counsel submits that proclamation was issued to declare the petitioner a proclaimed offender along with co-accused. During the investigation, the co-accused namely Sanjeev @ Thangal joined proceedings on 10.10.2024 and admitted to having destroyed the weapon of

offence which was identified as a “Dattar”, leading to the addition of offence



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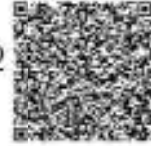
under Section 201 IPC. The State Counsel further submitted that injuries No. 1 and 3 have been attributed to the petitioner and one of the injuries has been declared grievous in nature. The seriousness of the allegations is significant, as the case involves not only grievous injuries but also the petitioner's alleged active role in the crime. The petitioner's actions show his involvement in the offence and an attempt to evade justice by destroying evidence. Given the seriousness of the crime, the petitioner's role, and the need for a thorough investigation, the petitioner is not entitled to the benefit of anticipatory bail to the petitioner at this stage. The anticipatory bail application of the co-accused Sanjeev has already been dismissed by this Court vide order dated 25.11.2024 passed in CRM-M-48267-2024.

5. Heard the rival submissions made by learned counsel for the parties and perused the record.

6. In ***Srikant Upadhyay and others vs. State of Bihar and another, 2024 (INSC) 202 (SC)***, Hon'ble Supreme Court held as under:

*“It is thus obvious from the catena of decisions dealing with bail that even while clarifying that arrest should be the last option and it should be restricted to cases where arrest is imperative in the facts and circumstances of a case, the consistent view is that the grant of anticipatory bail shall be restricted to exceptional circumstances. In other words, the position is that the power to grant anticipatory bail under Section 438, Cr. PC is an exceptional power and should be exercised only in exceptional cases and not as a matter of course. Its object is to ensure that a person should not be harassed or humiliated in order to satisfy the grudge or personal vendetta of the complainant. (See the decision of this Court in *HDFC Bank Ltd. v. J.J.Mannan & Anr. 2010 (1) SCC 679*).*

*Further, it was clearly observed in para NO. 24 of the judgment (supra) that “**though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that***



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anticipatory bail is the rule. It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant.”

7. 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.

8. In ***Siddharam Satlingappa Mhetra v. State of Maharashtra & Ors. reported in (2011) 1 SCC 694*** rendered in the context of the discretion to grant Anticipatory Bail under Section 438, Hon’ble Supreme Court advocated the need to balance individual personal liberty with societal interest and observed:-

“84. Just as liberty is precious to an individual, so is the society’s interest in maintenance of peace, law and order. Both are equally important.”

There are serious allegations levelled against the petitioner. A



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grievous injury has been attributed to the petitioner and allegedly the petitioner attempted to tamper the evidence by destroying the weapon used in offence. Accordingly, to unearth the true dimension of the alleged crime, this Court does not deem it appropriate to interfere in the matter so as to grant the concession of anticipatory bail to the petitioner at this stage.

- 10. The petition is dismissed.
- 11. Needless to mention that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
- 12. Pending application(s), if any, also stands disposed of accordingly.

(KIRTI SINGH)
JUDGE

December 02, 2024
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No