



CRM-M-54956-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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Date of decision: 6th November, 2024

Sanjeev Kumar ...Petitioner
Versus
State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Ashish Aggarwal, Advocate for the petitioner.
Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short ‘BNSS’) seeking pre-arrest bail in the FIR mentioned below:-

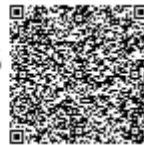
FIR No.	Dated	Police Station	Sections
75	08.08.2024	Raja Sansi, District Amritsar Rural	303(2), 351(3) of Bharatiya Nyaya Sanhita, 2023 (for short ‘BNS’), Section 25 of Arms Act, 1959

2. As per the prosecution case, the aforementioned FIR was registered on the basis of statement got recorded by the complainant Charanjeet Singh on 08.08.2024 alleging therein that he was employed as a Security Guard by DPA Company for taking care of building material and machinery which was being used for ongoing work at Village Adliwal at

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Katra road. On the intervening night of 7/8.08.2024, he was performing his duty when the petitioner along with 7-8 unknown persons reached there. They were having muffled faces but as the petitioner was already known to him, therefore, the complainant identified him. One of them pointed out a pistol towards the complainant and threatened that if he raised any alarm, he would be shot at. The complainant remained quiet. The petitioner along with the others committed theft of construction material i.e. twenty-five pieces of iron rod, fourteen pieces of channels, welding machines along with liad and three mobile phones of the labourers and left the spot while extending threats to kill him. Mustering courage, the complainant gave information to the Security Incharge. After registration of FIR, investigation proceedings have been initiated and are underway. Apprehending his arrest, the petitioner had moved an application for grant of bail which was dismissed by the Court of learned Additional Sessions Judge, Amritsar which was dismissed vide order dated 24.09.2024.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case. There is delay of more than sixteen hours in reporting the matter to the police. The prosecution version is improbable as there was no chance for the complainant to identify the petitioner, since as per his own version, he had reached at the spot with muffled face. The petitioner is ready to join the investigation. His custodial interrogation is not required. No recovery is to be effected from him. Therefore, it is urged that the petition deserves to be allowed and petitioner deserves to be released on bail.

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4. Learned State counsel has advance notice of the petition and has submitted that there are serious and specific allegations against the petitioner. He was named in the FIR. Recovery of stolen articles is to be effected from him. His custodial interrogation is required for such recovery as well as for conducting thorough investigation in the matter by the police. No extra ordinary or sparing circumstance has even otherwise been made out for the purpose of extending benefit of bail to the petitioner. Therefore, it is urged that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. The petitioner along with 7-8 unknown persons is alleged to have committed theft of Twenty-five pieces of iron rod, fourteen pieces of channels, welding machines, three mobile phones of the labourers, which were kept at the spot by DPS Company which was undergoing construction of a bridge at Delhi-Katra road. The petitioner had been duly named in the FIR. The recovery of stolen articles is to be effected from him. For conducting thorough investigation in the matter, the custodial interrogation of the petitioner is must. Moreso, it is well settled proposition of law that arrest is a part of procedure of the investigation to secure not only the presence of the accused but for several other purposes also. The powers of anticipatory bail are extra ordinary and the same are to be exercised sparingly in exceptional circumstances. 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 from justice and other factors to decide whether it is a fit case for grant of anticipatory bail as such grant to some extent interferes in the sphere of investigation of an offence. The Court must be circumspect while exercising such power for grant of anticipatory bail and it should not be granted as a matter of rule and has to be granted only when the Court is convinced that exceptional circumstances exist to resort to that extra ordinary remedy. In the present case, no such exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. As such, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

8. Since the main petition has been dismissed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

6th November, 2024

Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |