



102

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

**CRM-M No.55379 of 2024
Date of Decision: 07.11.2024**

Kuldeep Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Chahit Bansal, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

1. Present petition has been filed under Section 482 of BNSS, 2023 praying for the grant of pre-arrest bail to the petitioner in case bearing FIR No.69, dated 12.10.2024 (Annexure P-1), under Sections 331(3), 305, 61(1) of BNS, registered at Police Station City Cheema, District Sangrur. 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 present FIR was lodged on the statement of Balwinder Singh son of Jagjit Singh. It was alleged that on 03.10.2024, he went on his daily work as usual and when he came back at 3.00 p.m. along with his wife Amandeep Kaur, he found that the theft has taken place in his house from the Almirah.



He found that Rs.2,25,000/- and one gold earrings amounting to Rs.36/37,000/- were missing. His wife told him that on 03.10.2024 at about 1.00 p.m., Sandeep Kaur w/o Kuldeep Singh @ Mani had come to their house along with unknown person on motorcycle. On making excuse that she was to take medicine, she took his wife to village Borawal. While on the way as told by his wife, Sandeep Kaur was calling her husband, namely, Kuldeep Singh @ Mani on his mobile and informing him that she has taken Amandeep Kaur along with her. Thereafter Sandeep Kaur and her husband often used to come to their house. Thus it was alleged that Sandeep Kaur after taking his wife to their village along with unknown person had called her husband Kuldeep Singh @ Mani and thus committed theft in his house. The request was made to take the legal action against the culprits. On the basis of the complaint, the FIR was registered and the investigation commenced. Apprehending his arrest, the petitioner approached the Court of learned Additional Sessions Judge, Sangrur praying for the grant of anticipatory bail. However on hearing both the sides, the learned Additional Sessions Judge, Sangrur finding no merit, dismissed the same vide his order dated 25.10.2024. 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 the allegations made in the FIR are totally based on conjectures and surmises. He has submitted that neither the petitioner was with his wife nor he met the complainant or his wife on the day of the alleged incident as per the allegations made in the FIR. He has submitted that the CCTV footage proves no complicity of the petitioner. He has submitted that the petitioner has no criminal antecedents and thus in the facts and circumstances, no prima facie case having been made against the petitioner, he deserves to be granted anticipatory bail.

4. Notice of motion.

5. On asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of the respondent-State. He however has opposed the submissions made by learned counsel for the petitioner. He has produced the CCTV footage showing the complicity of the petitioner in the offence alleged. He has submitted that the investigation is at threshold and there being a prima facie case made out against the petitioner, granting bail to the petitioner would adversely effect the investigation. He has thus submitted that there being no merit in the present petition, the same deserves to be dismissed.

6. Heard.

7. On hearing learned counsel for the parties and perusing the record, it is apparent that the allegations have been made against



the petitioner and his wife. In the CCTV footage, as produced by the learned State counsel, complicity of the petitioner has been prima facie found in the alleged offence. Needless to say, the investigation is at threshold and thus, a free and fair investigation is required to unravel the mystery.

8. 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.*

9. 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.

10. 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.

11. 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. Thus, free and fair investigation is required to unravel the mystery. In the facts and circumstances of the case, granting anticipatory bail to the petitioner at this stage would adversely effect the ongoing investigation.

12. 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.

07.11.2024
rittu

(RAJESH BHARDWAJ)
JUDGE

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