

CRM-M-56126-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-56126-2024

Decided on : 16.12.2024

PRABHDEEP SINGH @ PRABH

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. Namit Gautum, Advocate
for the petitioner.

Mr. Vinay Kumar Malhotra, DAG Punjab.

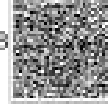
Mr. A.S.Gulati, Advocate for Complainant.

KIRTI SINGH, J. (Oral)

1. Apprehending arrest in FIR No.0149 dated 17.09.2024, under Sections 115(2), 118(1), 126(2), 324(4), 351(3), 191(3) and 190 of BNS and Section 118(2) of BNS added later on) registered at Police Station Division-B, District, Police Commissionerate Amritsar, the petitioner has preferred this petition under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of anticipatory bail.

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

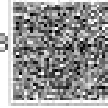
“Statement of Gurcharan Singh son of Amar Singh resident of House No. L-5/708 Street No. 4 Shaheed Udham Singh Nagar Amritsar Mobile No.98140- 19147 stated that I am a resident of the said address and my crockery shop is at Chowk Bazar No. 5 Shaheed Udham Singh Nagar



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Antarjami Colony. And at the distance of 5-6 shops from my shop, Sardul Singh alias Shera resident of Antarjami Colony also has a crockery shop. I keep advertising the crockery items of my shop through social media on Instagram and I sell goods on lowest rates than market. Due to which, people buy more goods from my shop after seeing lowest price goods and the goods of my neighbor shopkeeper Shera sell less. Due to which, Shera used to abuse me and make dirty gestures while passing by my shop for the last two months. On dated 11-09-2024, it will be around 10:00/10:30 P.M, I told my son Harmanpreet Singh to take out the shop goods from the car. Then my son Harmanpreet Singh was taken out the crockery goods from my car No. PB-02-EG-3553 Marka Magnet Company, Colour white. Then Shera, Shera's son Prabh and his wife and three other unknown young boyswere also came with them and Prabh was holding a gadasi type weapon made from a bicycle spare part (garari) in his hand who badly damaged my above car and when my son objected this, Prabh first hit my son with a Gadasitype weapon made of a bicycle spare part (garari) in his hand which was hit to the left side of myson's head and the second time they hit my son which hit the middle of my son's head and Prabh hit third hiton my son's waist. My son fell down on the ground in bleeding state and when I came forward to rescue myson, Shera's wife defiantly said that crockery seller Sethi has come, catch him too and have a good treatment. She took out the baseball inside of the shop and hand over it to her husband Shera, who immediately hit on my head, and I put my left hand forward for defence, the baseball hit my left hand little finger and my finger got broken. Second time hit on my left arm allbow and when I tried to defend myself 341, 427, 7, 326 and catch the baseball, he hit my left shoulder and twisted my left hand thumb violently and the three unknown persons who came with him joined him and pulled my both logs due to which my musculature got pulled and all of them together beat to my legs when I fell down and they took out approximately One and a half lakh rupees from my pocket which I had brought to buy my goods. When I loudly shouted "killed-killed" all these persons ran away from the incident place with their weapons threatening to kill me and my son Harmanpreet Singh. The reason behind rivalry is that there were crockery shops of mine and Shera. My crockery goods were sold more and his goods were sold less. Due to which, he was

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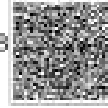
holding a grudge against me, as a well planned conspiracy, Sardul Singh alias Shera, his son Prabh and his wife and three unknown young boys has injured me and my son Harmanpreet Singh by beating. Till now, the most important persons have tried to get the compromise done of both our sides which could not be done. The MLR NO.02/SPS/ CHASR/2024 dated 11/9/2024 with respect to Harmanpreet Singh, issued by the doctor, has been submitted to you. By taking legal action against all of them, give justice to me and my son. The statement has been written, read and heard, it is correct.”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in the present case and there is a delay of 06 days in registering the FIR and there is no other case registered against the petitioner.

4. *Per contra*, learned State counsel has opposed the petition and relying upon the status report dated 26.11.2024 submits that there are serious allegations against the petitioner and he has actively participated in the alleged offence. The petitioner at the time of the commission of the alleged crime, was armed with an axe alike weapon. It was further stated that the petitioner inflicted three injuries on person of complainant-Gurcharan Singh out of which two injuries were declared grievous in nature by the medial board. The petitioner is also alleged to have vandalized the complainant's car.

5. Learned counsel for the complainant has also vehemently opposed the submissions made by learned counsel for the petitioner, emphasizing the seriousness of the allegations and the severity of the injuries sustained by the complainant and his son.

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



7. 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.P.C. 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 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.”

8. 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.

9. 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.”

10. There are serious allegations levelled against the petitioner. The petitioner is alleged to have been an active member of an unlawful assembly that was armed with deadly weapons and inflicted serious injuries on the victims, one of which has been declared dangerous to life. 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.

11. The petition is dismissed.

12. Needless to mention that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

13. Pending application(s), if any, also stands disposed of accordingly.

(KIRTI SINGH)
JUDGE

16.12.2024
Kavita

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