

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-60847-2023

Date of Decision:-10.01.2024

Som Raj.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Ms. Harpreet Kaur Arora, Advocate for the Petitioner.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The prayer in this petition under Section 438 Cr.PC is for the grant of anticipatory bail in case FIR No.0027 dated 16.03.2023 under Sections 379 IPC registered at Police Station Sadar Raikot, District Ludhiana Rural.

2. The present FIR came to be registered at the instance of Jagraj Singh @ Raja which reads as under:-

“ Copy of statement of Jagraj Singh @ Raja son of Surjeet Singh son of Harnam Singh, resident of Bhaini Dreda, Tehsil Raikot, District Ludhiana, aged about 55 years M.No.98551-131008, stated that I am resident of the above stated address and do agriculture work. I apart from my own land do agriculture by taking land on lease. That I have taken land of Jasvir Singh son of Harphool Singh, resident of Bhaini Dreda and Binder Singh son of Harbans Singh, resident of Sukhana on lease around 8-10 days ago. The cable wire of these motors were stolen after

cutting by some unknown person/persons. Earlier also a number of times theft had been committed on these motors. I have come to know that except me the cable wires of motors of Bhagwant Singh son of Kartar Singh, Sukhdeep Singh @ Kala son of late Bhajan Singh Namberdar, Lakhbir Singh @ Lakha son of Rajinder Singh, Harkamal Singh son of Hans Raj, Kala Singh son of Sukhdev Singh, Sarabjit Singh sons of Harbans Singh all residents of my village Bhaini Dreda had also been cut and stolen on different dates. Today iI along with Sukhdeep Singh @ Kala son of Late Bhajan Singh namberdar were coming to the police station for intimation. You have met, statement has been recorded with you, read, heard and is correct. Sd/- Jagraj Singh verified statement Sd/- Sukhdeep Singh, attested Buta Singh ASI PS Raikot dated 16.03.2023.”

During the course of the investigation, the petitioner came to be nominated as an accused.

3. The Counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. He has not been named in the FIR, but his name came up during the course of the investigation. There was an unexplained delay of more than 08 days in the registration of the present case. Therefore, the false implication of the petitioner could not be ruled out. As the petitioner was ready and willing to join the investigation, he was entitled to the concession of anticipatory bail.

4. The Counsel for the State on the other hand contends that the petitioner is a habitual offender. One other case bearing FIR No.24 dated 18.03.2023 under Section 379, 411 IPC P.S. Jodhan, District Ludhiana Rural stood registered against him in which he had been arrested and the recovery of 13 Kgs of copper wire and 60 Kgs of Plastic wire came to be effected from him. The allegations in the present case are identical. The petitioner

had sought the concession of anticipatory bail which was withdrawn by him on 12.09.2023 stating that he would file a fresh one with better particulars. However, no fresh circumstances have been enumerated in the present petition. Therefore, the present petition was liable to be dismissed.

5. I have heard learned Counsel for the parties.

6. The Hon'ble Supreme Court in the case of "***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022 Livelaw (SC) 870***", has held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the prima facie case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

" It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

*We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. **There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be***

many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail”.

7. As per the prosecution case, the petitioner was involved in the theft of copper wire and plastic wire in the present case as well. Another FIR had been registered against him on identical allegations in which he stood arrested and the recoveries were effected from him. The necessary recoveries are to be effected in the present case as well so as to take the investigation to its logical conclusion. Therefore, as a *prima facie* case stands established against the petitioner and the investigation is to be taken to its logical conclusion, the custodial interrogation of the petitioner is certainly necessary.

8. In view of the above, I find no merit in the present petition and the same stands dismissed.

9. However, the observations made hereinabove are only for the purposes of deciding this anticipatory bail petition and the Trial Court is free to adjudicate upon the matter on the basis of the evidence lead before it uninfluenced by any such observations made.

(JASJIT SINGH BEDI)
JUDGE

January 10, 2024
Vinay

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