

2024:PHHC:160660



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

269/2

CRM-M No.56685 of 2024
Date of Decision: 29.11.2024

Mohd. Kasif ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Aminder Singh, Advocate,
for the petitioner.

Mr. Satjot Singh, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking anticipatory bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
48	03.05.2024	City-I Malerkotla, District Malerkotla	315, 325, 323 and 452 of IPC

2. Adumbrated facts as emanating from the record are that the aforementioned FIR had been registered on the basis of complaint lodged by the complainant Salma Sultan alleging therein that she was pregnant and had come to meet her parents. On 06.10.2023 at about 6-7 PM, the petitioner scaled over the wall of the house of parents of the complainant along with co-accused Adrish and after criminally trespassing therein, he

2024:PHHC:160660



opened the main gate of the house thereby letting 12-13 unknown persons and the co-accused enter therein. The petitioner and co-accused Adrish opened an attack upon her family members and herself. All of them extended beatings to her father and herself. They also gave fist blows on her abdomen. She was kicked. She had started bleeding and was rushed to hospital. The still born child was delivered to her during the course of her treatment. She was discharged after a gap of 4-5 days. Her statement had been recorded by the police but no action had been taken. After registration of FIR, investigation proceedings were initiated.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. No specific injury has been attributed to him. As per the allegations in the FIR itself, he was not carrying any weapon at the time of alleged occurrence. It has not been proved that the miscarriage of the complainant had occurred as a direct result of the injury sustained. As per the medical opinion also, the injury No.1 could have been caused by activities on uneven surface and, therefore, it cannot be stated that the petitioner and co-accused had caused death of the foetus in the womb of the complainant. The prosecution version has been exaggerated and fabricated one. There is inordinate delay in reporting the matter to the police. His custodial interrogation is not required. He is ready to join the investigation. Therefore, it is urged that he deserves to be extended benefit of pre arrest bail.

4. Per contra, learned State counsel has argued in terms of the

2024:PHHC:160660



status report that the allegations against the petitioner are serious in nature. He was named in the FIR and by scaling over the wall of the parental house of the complainant along with co-accused Adrish, he had criminally trespassed therein and assaulted the complainant and her father. He along with the other assailants had given kicks and fist blows to the complainant due to which she suffered a miscarriage and gave birth to a still born child and remained admitted in hospital. She had sustained simple as well as grievous injuries. 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.

6. The petitioner along with the co-accused Adrish is alleged to have criminally trespassed into the house of the complainant on the evening of 06.10.2023, is alleged to have let 12-13 unidentified persons and the co-accused enter therein and is further alleged to have assaulted the complainant and her father by giving kicks and fist blows. As per the allegations, the assault made by the petitioner and the co-accused had made the complainant suffer a miscarriage as the foetus in her womb had been aborted/died as a result of the injuries alleged to be sustained at the hands of the assailants. It has come on record that the matter had been reported to the police in time and a rapat No.29 dated 09.10.2023 has also been registered. It is a different matter that the formal FIR has been registered after a considerable delay. The allegations against the petitioner are serious in

2024:PHHC:160660



nature. For conducting thorough investigation in the matter, the custodial interrogation of the petitioner is must. 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 several other purposes. 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 has also to see that an order of anticipatory bail should not operate as inroad in the normal legal procedure of criminal cases by the trial Court. The custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order of anticipatory bail. 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.

2024:PHHC:160660



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

29.11.2024
manju

(MANISHA BATRA)
JUDGE

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