

2024:PHHC:156574



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-59085-2024
DECIDED ON: 27.11.2024

DHARMINDER SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Shubham Gupta, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

The jurisdiction of this Court under Section 482 of The Bharatiya
Nagarik Suraksha Sanhita, 2023, has been invoked seeking the concession for the
grant of anticipatory bail to the petitioner in FIR No.184 dated 29.12.2021, under
Section 380 of IPC, 1860 (Section 411 IPC added later on) registered at Police
Station City-1, Malerkotla, District Malerkotla.

2. Facts

The prosecution story set up in the present case as per the version
narrated in the FIR read as under :-

*“It is recorded now that one Order No.1099/P dated 29.12.2021 has
been received from Ld. SSP, Malerkotla on the application of Amrik
Singh s/o Hazura Singh r/o Ravidas, Malerkotla received through post
for registration of case against Balraj Singh @ Bicha s/ o Amrik Singh*

r/o Ravidas Nagar Malerkotla, Dilwar Khan s/o Mohd. Ashraf r/o Barkatpura and some unidentified persons, which is as follows: To, Ld. SSP, Malerkotla. Application for taking legal action against Dilwar Khan, Dipu, Katta, Suraj, nephew of Suraj, Bitu s/o Daneshwer, Balraj Singh @ Bicha s/o Amrik Singh, some unidentified persons for committing theft. Respected Ma'am, It is requested that I am Amrik Singh s/o Hajura Singh and is r/o Ravidas Nagar, Malerkotla, District Malerkotla. My house is at Ravidas Nagar Malerkotla and I have one factory (chill rolls) at Mehdevi road, Malerkotla. I and my son Sohan Singh are undergoing sentence in FIR u/s 302. After our arrest, my real son Balraj Singh used to reside in house. When we came on parole, we found that our household articles, gold, silver, gas-cylinder, 3 motorcycle have been stolen and 10 motors, material of machines & scrap have been stolen from factory. On my inquiry, it was found that above-said persons in connivance with my son Balraj Singh have stolen goods worth 50 lakhs from my house and factory. Therefore, by presenting this application, it is requested that strict legal action be taken against above-said persons and justice be delivered to me.”

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner contends that initially the petitioner was not named in the FIR and he has been nominated after more than 2 years on the basis of disclosure statement of main accused Balraj. He further submits that neither the petitioner received nor retained any stolen property, therefore, nothing is to be recovered from him. The attention of this Court has been drawn to an order dated 06.11.2024 passed by this Court in CRM-M-54981-2024, vide which co-accused namely Abdul Sattar has already been granted the concession of anticipatory bail.

Notice of motion.

On behalf of the respondent/State

On the asking of Court, Mr. Rubal Pawar, AAG Punjab, accepts notice on behalf of respondent/State and on instructions from HC Rupinder Singh, prays for dismissal of the present petition asserting that custodial interrogation of the petitioner is required, as he is a goldsmith and the stolen jewellery in his possession, which is worth Rs.50,00,000/-.

4. Analysis & Decisions

Be that as it may, having regard to the submissions made on behalf of the parties to the lis, the story of the prosecution prima facie seems to be doubtful at this stage at least for the purpose of sending the petitioner behind bars inasmuch, the allegation are qua theft of household articles, which include gold, silver, gas-cylinder, 3 motorcycle apart from articles from the factory of complainant i.e., 10 motors, materials of machines & scrap. This court is amazed at the alleged story put forth in the FIR by the complainant that simultaneously a theft has been committed qua jewelry from his residence and certain articles from the factory.

In the light of above, this Court finds no reason to deny the petitioner the concession of anticipatory bail wherein the petitioner has bona fide intentions and is ready and willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency in time.

Hence, in view of the admitted set of circumstances before this Court added with the fact, the petitioner is not involved in any other case, meaning thereby he is a person of clean antecedents, he is hereby directed to be released on anticipatory bail subject to him joining investigation and reporting to the Investigating Officer concerned within a period of 10 days from today, on

furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer.

The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS of which are reproduced below :-

“When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-
(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;
(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;
(iii) a condition that the person shall not leave India without the previous permission of the Court;
(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.”

However, it is made clear that in case the petitioner do not comply with the aforesaid direction of joining the investigation within 10 days, the order passed by this Court today shall automatically, stand cancelled.

In the afore-said terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

27.11.2024

Meenu

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