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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision: 11.12.2024

Sukhdev Singh and another

...Petitioners

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. B.D. Sharma, Advocate for the petitioners.
Mr. Adhiraj Singh Thind, AAG Punjab.
Mr. Arshdeep Singh Sivia, Advocate for the complainant.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 482 of Bharatiya
Nagarik Suraksha Sanhita, 2023 (hereinafter to be referred as 'the BNSS')
for grant of anticipatory bail to the petitioners in case bearing FIR No.103
dated 16.10.2024, registered for the offences punishable under Sections 80
and 3(5) of Bharatiya Nyaya Sanhita, 2023 at Police Station Fatehgarh
Churian, District Gurdaspur.
2. The case set up in the FIR in question (as spelt out in the
petition by the petitioner) is as follows:-

“Statement of Ajmer Singh son of Lakhwinder Singh resident of village Varnali (Harsha Chhina), District Amritsar aged about 57 years, mobile No. 73473- 37927, stated that I am a resident of above address and is employed in department of Punjab Homeguard at Police Station Raja Sansi, Amritsar. I have two children, elder son Vikramjit Singh and younger daughter Arashdeep Kaur aged about 28 years. She was married about three years ago with Amritpal Singh son of Sukhdev Singh resident of Badowal Kalan, she is having one son Sahajdeep Singh aged about two years. Amritpal Singh (husband), Ranjit Kaur (mother-in-law) and Sukhdev Singh son of Parshotam Singh (father-in-law) used to harass her.



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In this regard, we have been settling their dispute in the presence of Panchayat and the relatives. On 13/10/2024, at about 09:30am, my brother Gurbax Singh told me that a call from your daughter Arshdeep Kaur is received that her husband Amritpal Singh, mother in law Ranjit Kaur and father in law Sukhdev Singh have forcibly given some poisoness medicine to her, on which, I alongwith my brother Gurbax Singh was going towards the village Badowal Kalan then on the way we came to know that they are taking my daughter Arashdeep Kaur for treatment at Mahajan Hospital Fatehgarh Churian, on which we reached near Mahajan Hospital Fatehgarh Churian and seeing that serious condition of Arashdeep Kaur we got her admitted for treatment in Hartej Hospital Amritsar. During treatment, my daughter Arashdeep Kaur has died. I left my brother Gurbax Singh near the dead body of my daughter Arshdeep Kaur and was coming to Police Station for giving the information that you have met. Legal action be taken against the above persons. Statement has been heard which is correct. Sd/- Ajmer Singh”

3. Learned counsel for the petitioner has argued that from the very narrative of the FIR, no specific role has been attributed to the petitioners and they have been falsely implicated in the instant FIR at the instance of the complainant. Learned counsel has submitted that the petitioners have no role to play in the matrimonial life of their son and his wife namely Arashdeep Kaur (deceased). According to learned counsel, on the day of alleged incident, a quarrel arose between the son of the petitioners namely Amritpal Singh and his wife Arashdeep Kaur (deceased) regarding demand being raised by the deceased for a separate residence and share in the family property and under the mental strain caused by the arguments, the son of the petitioners - Amrit Pal Singh consumed poison. After witnessing the son of the petitioners - Amritpal Singh in a critical condition, his wife namely Arashdeep Kaur (deceased) also consumed poison, ostensibly to avoid being accused of abetting Amritpal Singh. According to learned counsel,

unfortunately the deceased died while the son of the petitioners survived. It

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is further iterated by the learned counsel that the complainant never raised any prior complaints against the petitioners. From the allegations levelled in the FIR, it is evident that the same are an afterthought by the complainant and there is no direct evidence against the petitioners. Learned counsel further asserts that the complainant, in connivance with the Police, has arbitrarily implicated the petitioners in the present case in a bid to extract revenge. In order to harass and humiliate the petitioners, the complainant has concocted a false and fabricated story. It is next submitted by the learned counsel that the petitioners are not required for the purpose of custodial interrogation and hence in these circumstances when the petitioners are ready to join the investigation, no useful purpose would be served by sending them behind the bars. It is lastly submitted that the petitioners, being quinquagenarian and without any substantial piece of evidence on record against them, be extended the benefit of anticipatory bail.

4. On the strength of the advance notice, the learned State counsel has opposed the grant of anticipatory bail to the petitioners by arguing that the offence committed by the petitioners is serious in nature. Moreover, in order to elicit the truth, the custodial interrogation of the petitioners would be necessary and hence dismissal of the anticipatory bail is prayed for.

5. At this stage, Mr. Arshdeep Singh Sivia, Advocate has entered appearance on behalf of the complainant and has filed his Vakalatnama, which is taken on record. He has vociferously opposed the grant of anticipatory bail to the petitioners, who are parents-in-law of the deceased, by submitting that there are specific allegations against the petitioners that



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they used to harass the deceased which instigated her to commit the suicide. Moreover, the deceased has died within 07 years of her marriage.

6. I have heard counsel for the rival parties and have gone through the available records of the case.

7. It would be apposite to refer herein to a judgment of the Hon'ble Supreme Court titled as ***Kishor Vishwasrao Patil vs. Deepak Yashwant Patil and another*** passed in ***SLP(Crl) No.1125-2022***, relevant whereof reads as under:

“74. Ordinarily, arrest is a part of the process of the investigation intended to secure several purposes. There may be circumstances in which the accused may provide information leading to discovery of material facts and relevant information. Grant of anticipatory bail may hamper the investigation. Pre-arrest bail is to strike a balance between the individual's right to personal freedom and the right of the investigating agency to interrogate the accused as to the material so far collected and to collect more information which may lead to recovery of relevant information. In State v. Anil Sharma [State v. Anil Sharma, (1997) 7 SCC 187 : 1997 SCC (Cri) 1039], the Supreme Court held as under : (SCC p. 189, para 6)

“6. We find force in the submission of CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well-ensconced with a favourable 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.



75. Observing that the arrest is a part of the investigation intended to secure several purposes, in **Adri Dharan Das v. State of W.B.** [**Adri Dharan Das v. State of W.B., (2005) 4 SCC 303 : 2005 SCC (Cri) 933**] , it was held as under : (SCC p. 313, para 19)

“19. Ordinarily, arrest is a part of the process of investigation intended to secure several purposes. The accused may have to be questioned in detail regarding various facets of motive, preparation, commission and aftermath of the crime and the connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to discovery of material facts. It may be necessary to curtail his freedom in order to enable the investigation to proceed without hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his disappearance, to maintain law and order in the locality. For these or other reasons, arrest may become an inevitable part of the process of investigation. The legality of the proposed arrest cannot be gone into in an application under Section 438 of the Code. The role of the investigator is well defined and the jurisdictional scope of interference by the court in the process of investigation is limited. The court ordinarily will not interfere with the investigation of a crime or with the arrest of the accused in a cognizable offence. An interim order restraining arrest, if passed while dealing with an application under Section 438 of the Code will amount to interference in the investigation, which cannot, at any rate, be done under Section 438 of the Code.”

76. In **Siddharam Satlingappa Mhetre v. State of Maharashtra** [**Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694 : (2011) 1 SCC (Cri) 514**], the Supreme Court laid down the factors and parameters to be considered while dealing with anticipatory bail. It was held that the nature and the gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made and that the court must evaluate the available material against the accused very carefully. It was also held that the court should also consider whether the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.

77. After referring to **Siddharam Satlingappa Mhetre** [**Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694 : (2011) 1 SCC (Cri) 514**] and other judgments and observing that anticipatory bail can be granted only in exceptional circumstances, in **Jai Prakash Singh v. State of Bihar** [**Jai Prakash Singh v. State of Bihar,**



(2012) 4 SCC 379 : (2012) 2 SCC (Cri) 468] , the Supreme Court held as under : (SCC p. 386, para 19)

“19. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty. (See D.K. Ganesh Babu v. P.T. Manokaran [D.K. Ganesh Babu v. P.T. Manokaran, (2007) 4 SCC 434 :(2007) 2 SCC (Cri) 345] , State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain [State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain, (2008) 1 SCC 213 : (2008) 1 SCC (Cri) 176] and Union of India v. Padam Narain Aggarwal [Union of India v. Padam Narain Aggarwal, (2008) 13 SCC 305 : (2009) 1 SCC (Cri) 1].)”

Economic offences

78. Power under Section 438 CrPC being an extraordinary remedy, has to be exercised sparingly; more so, in cases of economic offences. Economic offences stand as a different class as they affect the economic fabric of the society. In Directorate of Enforcement v. Ashok Kumar Jain [Directorate of Enforcement v. Ashok Kumar Jain, (1998) 2 SCC 105 : 1998 SCC (Cri) 510], it was held that in economic offences, the accused is not entitled to anticipatory bail.”

15. In Sushila Agrawal and others v. State (NCT of Delhi) and Another reported in (2020) 5 SCC 1, Constitution Bench of this Court held that while considering an application for grant of pre-arrest bail the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence or likelihood of fleeing justice. The Court held:-

“92.4. Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion; equally whether and if so, what kind of special conditions are to be imposed (or not imposed) are dependent on facts of the case, and subject to the discretion of the court.”

8. As per the allegations put forth in the FIR in question, it is

indubitable that serious allegations have been levelled against the petitioners.

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The complainant is alleged to have levelled specific allegations of cruelty, asserting that the deceased was subjected to physical and emotional harassment by the petitioners, who are father-in-law and mother-in-law of the deceased. It is alleged that this persistent harassment instigated the deceased to take the extreme step of committing suicide. The FIR paints a picture of sustained cruelty and harassment, which purportedly drove the deceased to a state of despair, compelling her to end her life within 07 years of marriage. The allegations/material clearly indicates sufficient cause against the petitioners indicating their involvement in the alleged incident. The prime ground pleaded by the petitioners-herein is that there was matrimonial acrimony on account of which the deceased as also the son of the petitioners had consumed the poison. In this regard, learned counsel for the petitioners has placed reliance upon the discharge medical summary of their son namely Amritpal Singh to substantiate that he-Amritpal Singh had also consumed poison. However, a perusal of the said discharge summary (copy whereof has been appended as Annexure P-2 with the instant petition) shows that the vital parameters of the said Amritpal Singh were absolutely stable at the time of his clinical examination when admitted in the hospital. Furthermore, from the material brought forward before this Court, it is clear that no gastric lavage was carried out which is first/essential medical treatment in the case of poisoning. Still further, the main complaint made by the patient-Amritpal Singh, as decipherable from the discharge summary, is that he had kept some poison in his mouth for about 15-20 seconds. Still further; the said patient-Amritpal Singh (husband of the deceased) was discharged against medical advice. This material, at this stage, itself reflect



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multiple dents in the story put forward by the petitioners-herein. Accordingly, this alleged story cannot form basis for grant of anticipatory bail to the petitioners.

8.1 It is befitting to mention here that, given the severity of the allegations as also the nature of the conduct attributed to the petitioners, this Court is of the considered opinion that offence of such magnitude must be properly investigated and the truth must be brought on record. Moreover, while considering a plea for the grant of anticipatory bail, the Court ought to reckon with the magnitude and nature of the offence; the role attributed to the accused; the need for fair and free investigation. At this stage, there is no material on record to hold that *prima facie* case is not made out against the petitioners or there is no direct evidence against the petitioners. The nature and gravity of the alleged offence and the specific role ascribed to the petitioners essentially lead to unequivocal conclusion that the petitioners do not deserve the concession of anticipatory bail. It goes without saying that in the instant case, the complainant has categorically stated that his daughter (deceased) was continuously harassed and treated with cruelty and threatened by the petitioners which ultimately took her life, it is not appropriate to grant anticipatory bail, as it would necessarily cause impediment in effective investigation. The argument raised by the learned counsel for the petitioners that the petitioners have been falsely implicated in the present case and hence not required for custodial interrogation, is a misplaced argument especially, in light of the nature, severity and seriousness of allegations levelled against the petitioners. It would be apposite to refer herein to a judgment passed by Hon'ble Supreme Court titled as *Sumitha*



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Pradeep vs. Arun Kumar C.K. & anr., = 2022 AIR Supreme Court, 5705;

relevant whereof reads as under:-

“15. 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.

16. 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 anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

Accordingly, this Court is of the considered opinion that the petitioners do not deserve the concession of anticipatory bail. Moreover, custodial interrogation of the petitioners is necessary for an effective investigation & to unravel the truth. The petition is, thus, devoid of merits



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9. Any observations made and/or submissions noted hereinabove shall not have any effect on the merits of the case and the investigating agency as also the trial Court shall proceed further, in accordance with law, without being influenced with this order.
10. Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

December 11, 2024
Ajay

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