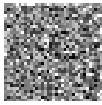


2025:PHHC:010250



105

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-3807-2025
DECIDED ON: 23.01.2025

AJAIB SINGH

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Gurjeet Singh Kaura, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.0837 dated 13.12.2024, under Sections 196, 34, 420, 465 of IPC, 1860 (Sections 467, 468 and 471 of IPC added later on), registered at Police Station Rania, District Sirsa.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“The brief facts of the case are that a petition CRM-M 47699 of 2024 containing Annexure- P-11 i.e. complaint of Malkiat Singh son of Amarjit Singh resident of village Nakoda, Tehsil Rania, District Sirsa, after investigation and review was received at the police station from the Deputy Superintendent of Police (Headquarters), Sirsa. It is mentioned in the complaint that the complainant is an ex-serviceman of the Indian Army. A dispute regarding his land is going on in the District Court at Ambala for the last 15-16 years. The title of the case is Surjeet Kaur vs. Bhagwant Singh, in which Bhagwat Singh is defendant no.1 and the

complainant is defendant no.2. Bhagwant Singh is a party in the said case being power of attorney. The case number is Civil Suit (CS) No. 5676 of 2013. Now the appeal of this case is pending. This suit was filed by Surjeet Kaur wife of Gurdev Singh against the complainant and Bhagwant Singh and this case is being pursued by Ajaib Singh son of Surjeet Kaur. Both of them are residents of village Dapper Tehsil Dera Bassi District Mohali. In order to take illegal advantage of this case, both mother and son together and in connivance with the then Moharrir namely Anil Kumar of Police Station Rania District Sirsa filed some RTI applications in 2014, which are as follows: Serial No.202-RTI (27/03/14), 45-RTI (05/03/14), 46-RTI (05/03/14), 72-RTI (06/02/14) and copies of the same were attached with the complaint. In the last paragraph of the reply to these RTIs, a fake record was prepared by mentioning the pendency of FIR No.158/05 against Bhagwant Singh son of Shiv Ram, resident of Rajpura. Copy of this RTI reply, which was prepared illegally, was attached and used as Mark- M and Mark- N in the said civil suit in the Civil Court, at Ambala. No person with name Bhagwant Singh was ever mentioned in the entire police record of FIR No.158/05, PS Rania (Sirsa) during the investigation, nor such name ever mentioned in any court record during the trial. There is no mention of any person by this name even in the final court decision of FIR No. 158/05. Hence, the complainant requested that in the said civil suit pending at Civil Court Ambala, the collusion and relation of complainant and Bhagwant Singh was sought to be shown by showing that both complainant and Bhagwant Singh were accused in FIR no.158/05, PS Rania (Sirsa) and thereby fake record was prepared illegally. The complainant came to know about this RTI record while preparing for the final arguments of the said civil case. This work has been done by Surjeet Kaur and her son Ajaib Singh in order to produce false evidence in the Court and usurp the land of the complainant in collusion with official of the Police Station. The complainant thereby requested that the police officer misused his power and the said document was prepared falsely and in collusion in order to affect the decision of the case. On 23/10/2023, Superintendent of Police heard their complaint and assured action and marked the complaint to DSP Headquarters Jagat Singh Mor for investigation, which was registered as diary number 4828- PC dated 23/10/2023. After a few days, the DSP called them in the office and pressurised them to withdraw the complaint and hush up the matter. The complainant was not heard at all and no action was taken against the culprits. When the said DSP Jagat Singh put pressure on the complainant during the investigation, the complainant sent complaints to Chief Minister and DGP which are registered in SP office Sirsa as 54-HMA dated 29/02/2024 and 36-HM dated 29/01/2024. The said complaint marked for action by DGP and CM, was sent by S.P. Sirsa to DSP Ellenabad for investigating the matter in depth, wherein it was found that some RTI applications were filed by Ajaib Singh son of Surjeet Kaur in

2014 in Police Station Rania regarding FIR No.158/05, in Police Station Rania and in reply to those RTI applications number 202-RTI (27/03/14), 45-RTI (05/03/14), 46-RTI (05/03/14), 72-RTI (06/02/14), wrong information was found being given by mentioning the name of Bhagwant Singh son of Shiv Ram in FIR No.158/05 in Police Station Rania. This fake document was found to have been given by the then Moharrir Anil Kumar no.1065. This fake document was got prepared by Surjeet Kaur and her son Ajaib Singh in connivance with the then Moharrir Anil Kumar in lieu of some consideration to influence the decision of the case and to usurp the land of the complainant. Despite such a thorough investigation and having all the evidences, no action is being taken against these three culprits. The police is pressurizing them to hush up this matter. The complainant further pleaded that he has spent the most valuable time of his life in the Indian Army for the security of this country whereas to usurp his land, some wrong people and officers in connivance with each other have prepared fake record to prove the collusion and relation between the complainant and Bhagwant Singh since before, by showing their names in FIR no. 158/05, PS Rania (Sirsa) and fake records have been prepared illegally. Despite all this, the officials are exerting pressure on the complainant to suppress this matter. Hence, the complainant requested that an FIR may be lodged in this case and strict action be taken against the culprits. An investigation should also be conducted as to what transaction took place between Surjeet Kaur, Ajaib Singh and Moharrar Anil Kumar for preparing fake documents.”

3. **Contention**

On behalf of the petitioner

The learned counsel for the petitioner has relied on the judgment and decree dated 20.09.2023 (Annexure P-4) passed by the Civil Judge, Junior Division, Ambala, in his favor. The judgment does not include any findings regarding Mark-M and Mark-N. Instead, those issues were adjudicated on their merits. It is only after a lapse of 10 years, when the complainant lost the civil suit, the present FIR has been registered, which appears to be an afterthought.

Notice of motion.

On behalf of the State/complainant

Mr. Baljinder Singh Virk, Sr. DAG Haryana, accepts notice on behalf of respondent/State assisted by Mr. Mayank Gupta, Advocate on behalf of the

complainant, though was not put on notice but seeks dismissal of the present petition on the ground that the complainant has been cheated and rather the documents in question were used to demonstrate the relationship between the defendant No.1 & 2, which are not in the police record at all.

4. **Analysis & Decision**

In cases of criminal investigation, the normal procedure prescribed for curtailing the right to life & liberty, is that the investigating officer can arrest the accused even without warrant. No doubt this Court has extraordinary power to protect an innocent person. However, this power has to be exercised by the Courts with due circumspection.

After careful consideration of the submissions, particularly to the fact that the Deputy Superintendent of Police in the inquiry report dated 22.07.2024 (Annexure P-7) has admitted that a wrong information has been provided by none other than the petitioner, who in a civil suit produced a document Mark-M, the fact that such documents were not proved as per the procedure laid down in the Evidence At itself, which raises suspicion on the conduct of the petitioner, which make it clear that he was in hand-in-glove with the police officials.

In the light of above discussed facts, this Court is of the firm view that to dig up the modus operandi and the manner in which the petitioner has managed to provide RTI information against the official record needs to be investigated thoroughly for which custodial interrogation of the petitioner is required.

The Hon'ble Supreme Court in the case of ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022 Live Law (SC) 870*** 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.”*

More so, investigation is still going on in the present case. It is settled proposition of law that power exercisable under Section 482 BNSS, is somewhat discretionary in character and it is to be exercised with caution in exceptional cases.

The Supreme Court in **“State vs. Anil Sharma”; (1997) 7 SCC 187**, held as under:-

“We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded 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 material 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 needs 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.”

Keeping in view the circumstances of instant case, the role attributed to the petitioner and bearing in mind the law enunciated as discussed hereinabove, this Court is of the view that his custodial interrogation is required to collect the material evidence, which may further enable the Investigating Agency to unearth the ramifications involved in the present case and that will ultimately help the Investigating Agency to reach to a logical conclusion. Therefore, this Court does not find any merit in the present petition, hence the same stands dismissed with no order as to costs.

However, the observations made hereinabove shall have no bearing in the mind of the Court while adjudicating the matter in accordance with law.

Ordered accordingly.

23.01.2025

Meenu

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>