2025:PHHC:139168

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IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

CRM-M-56669-2025
Date of decision: October 06, 2025

Fardeen

….Petitioner

versus

State of Haryana

….Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Abhinav Sood Advocate for the petitioner.

Mr. Vishal Singh, AAG Haryana.

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SUMEET GOEL, J. (ORAL)

Present petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of anticipatory bail to the petitioner in case bearing FIR No.838 dated 07.11.2024, registered for the offences punishable under Sections 115, 190, 191(3), 351(3) of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS') (Sections 117(2) and 140(4) of the BNS added lateron), registered at Police Station Camp Palwal, Tehsil and District Palwal.

2. The gravamen of the FIR in question is that on 06.11.2024, at about 09:30 PM, the complainant, namely, Yasin along with his son Sharukh, Gauri @ Gourav, Manoj, and Hemant went to Bakshi Farm, Shyam Nagar, Palwal to attend a marriage function. At that time, the

accused persons arrived at the spot and attacked them with *lathis*, *dandas*, and hammers. It is further alleged that the accused persons kidnapped the complainant, took him from Ram Nagar to Mohan Nagar, to the office of Saleem, where they assaulted him. Thereafter, he was thrown on the road and threatened not to interfere with them in the future. On the basis of these allegations, an FIR was registered under Sections 190, 191(3), 115(2), and 351(3) of the BNS. Subsequently, after receiving the medical record of the injured, Section 117(2) BNS was added.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel has argued that the petitioner has no relation whatsoever with the commission of the offence in question. Learned counsel has iterated that neither any specific injury has been attributed to the petitioner nor any motive has come forth to show allege involvement of the petitioner in committing the offence in question. Learned counsel submits that earlier, the petitioner was released on bail by the police, but later on, after addition of offence under Section 140(4) of the BNS, the bail of the petitioner was cancelled. Learned counsel has also iterated that there is nothing to be recovered from the petitioner, & he is ready and willing to join investigation. On the basis of the aforementioned submissions, grant of the instant petition is prayed for.

4. On advance service of copy of petition, learned State counsel appears and has opposed the grant of anticipatory bail to the petitioner by arguing that allegations raised against the petitioner are serious in nature. Learned counsel has argued that the petitioner along with his accused

inflicted injuries on the person of the complainant to the extent that he received fractures on his hand, leg and chest. Learned counsel has argued that investigation in the present case is still under way and the petitioner is yet to be arrested. Given these circumstances, custodial interrogation of the petitioner is indispensable. It is therefore, submitted that the present petition is devoid of merit and is liable to be dismissed.

5. I have heard the learned counsel for the rival parties and have gone through the available record of the case.

6. 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.*
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> *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)*
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> *"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."*

7. As per the case put forth in the FIR in question, indubitably, serious allegations have been levelled against the petitioner. As per the version put forth by the prosecution, the petitioner alongwith his co-accused had opened attack upon the complainant – party and caused injuries to the complainant, namely, Yasin, Sharukh & Gaurav. They took the complainant from Ram Nagar to Mohan Nagar and inflicted grievous injuries to him resulting which, the complainant received fractures on his hand, leg and chest. The said injuries have been corroborated by medical evidence available on record. The Call Detail Record (CDR) of the petitioner shows that the accused took the complainant from Ram Nagar to Mohan Nagar. The petitioner has specifically been named in the FIR in question.

8. Furthermore, the investigation is still at a crucial stage, and custodial interrogation of the petitioner is considered necessary to unearth the complete facts and to ascertain involvement of any other persons connected with the case. The petitioner is yet to be arrested and grant of anticipatory bail, at this stage, may prejudice the ongoing investigation. The apprehension expressed by the prosecution that the petitioner, if released on bail, may abscond or attempt to influence witnesses also appears to be not without basis. Given the seriousness of the offence, the stage of investigation

and possibility of tampering with evidence or obstructing justice, this Court is of the view that the petitioner does not deserve the concession of bail at this juncture. Moreover, in view of the serious allegations, the custodial interrogation of the petitioner is indispensable and crucial for unearthing the broader conspiracy and identifying the other accomplices that may be within the exclusive knowledge of the petitioner. Moreover, the grant of anticipatory bail at this premature stage may seriously prejudice the ongoing investigation and potentially result in tampering with evidence or influencing material witnesses.

9. It is befitting to mention here that while considering plea for grant of anticipatory bail, the Court has to equilibrate between safeguarding individual rights and protecting societal interest(s). 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 as also the deeper and wide impact of such alleged iniquities on the society. A profitable reference in this regard is being made to the dicta passed by the Hon'ble Supreme Court titled as ***State v. Anil Sharma, (1997) 7 SCC 187 : 1997 SCC (Cri) 1039***, the Supreme Court held as under, relevant whereof reads as under:

> "*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.*"

At this stage, there is no material on record to hold that *prima facie* case is not made out against the petitioner. The material which has come on record and preliminary investigation, appear to establish a reasonable basis for his accusation. Thus, it is not appropriate to grant anticipatory bail to the petitioner, as it would necessarily cause impediment in effective investigation.

10. Accordingly, this Court is of the considered opinion that the petitioner does not deserve the concession of anticipatory bail in the factual *milieu* of the case in hand. Moreover, custodial interrogation of the petitioner is necessary for an effective investigation & to unravel the truth. The petition is, thus, devoid of merits and is hereby dismissed.

11. Nothing said hereinabove shall be deemed to be an expression of opinion upon merits of the case/investigation.

12. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

October 06, 2025
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No