

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM No. M-14069 of 2016

Date of decision:- August 03, 2016

Bagga Ram

.....Petitioner..

Vs.

State of Punjab

....Respondent..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Prateek Pandit, Advocate,
for the petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

Mr. Rakesh Sharma, Advocate,
for the complainant.

JASPAL SINGH, J. (Oral)

Instant petition has been preferred under Section 438 of the Code of Criminal Procedure (for short, "Cr.P.C.") by Bagga Ram, seeking pre-arrest bail, feeling apprehension of his arrest, in case FIR No.146, dated 19.08.2015, under Sections 326, 324, 323 and 34 IPC, Police Station Kapurthala.

2. On 20.05.2016, this Court has passed the following order:-

"In pursuance to the order dated 13.05.2016, the Senior Superintendent of Police, Kapurthala has come present in Court.

In the light of observations contained in the order dated 13.05.2016 even an affidavit of the officer dated 19.05.2016 along with Annexures R-1/T to R-9/T has been filed in Court. The same is taken on record.

Perusal of the affidavit and the documents appended thereto would prima facie satisfy this Court that in this case and

during the course of investigation, the Senior Superintendent of Police, District Kapurthala had not been apprised of the complete facts and circumstances and which in turn led to the marking of a second inquiry/further investigation.

Learned State counsel has even adverted to the orders appended at Annexures R-5/T to R-9/T which are in the nature of show cause notices issued to the concerned officials as regards dereliction in their duty and where upon have been called upon to furnish the explanation.

The stand taken on behalf of the Senior Superintendent of Police, Kapurthala who is present in Court is accepted. Suffice it to observe that the proceedings initiated in the light of orders at Annexures R-5/T to Annexure R-9/T will be taken to the logical end but after following due procedure in accordance with law.

Presence of the official concerned stands exempted for further proceedings.

On the merits of the case, accusation against the present petitioner is with regard to having inflicted a *datar* blow on the left elbow of the complainant, namely, Vijay Kumar and which injury in turn has been opined to be grievous in nature attracting offence under Section 326 IPC.

As per investigation done till date, there is one inquiry report furnished by the Deputy Superintendent of Police, Sub Division, Kapurthala dated 08.12.2015 in which the petitioner has been found to be innocent. Rather the findings are that he was not even present at the spot. Undoubtedly, the matter thereafter has been marked for further investigation and a report has come from Superintendent of Police (Detective), Kapurthala which indicates the complicity of the present petitioner with the offence.

State counsel would concede that in the light of affidavit dated 19.05.2016 of the Senior Superintendent of Police, District Kapurthala, the matter is still under further investigation in the light of conflicting reports already submitted.

Under such circumstances, hearing in the present petition is deferred to 28.07.2016.

In the meanwhile, petitioner is directed to appear before the Investigating Officer and to join investigation.

In the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting/Investigating Officer. The petitioner shall join investigation as and when called upon to do so and he shall remain bound by the conditions envisaged under Section 438(2) Cr.P.C.”

3. On instructions from Inspector Sarwan Singh Bal, learned State counsel has fairly submitted that the petitioner has already joined the investigation. Further, it has been submitted by him that the investigation is still in progress.

4. Moreover, a glance at the aforesaid order also reveals that as per inquiry report furnished by Deputy Superintendent of Police, Sub Division, Kapurthala dated 08.12.2015, the petitioner has already been found innocent but subsequent thereto, on the basis of another application dated 17.03.2016 a fresh inquiry was initiated by the police.

5. Since, the petitioner has already joined the investigation, this Court is of the considered view that his further custodial interrogation is not required.

6. Taking into consideration the aforesaid facts of the case, interim order dated 20.05.2016, is made absolute, subject to the conditions envisaged under Section 438 (2) Cr.P.C.

August 03, 2016
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No