

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

Date of decision: 10.07.2017

CRM-M No.719 of 2017 (O&M)

Rakesh Kumar @ Gora

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Vipin Mahajan, Advocate, for the petitioner.

Mr. A.A.Pathak, Addl. AG, Punjab.

RAJIV NARAIN RAINA, J.

This is a petition under Section 438 Cr.P.C. seeking anticipatory bail in a case registered against the petitioner under Sections 452/326/324/323/506/148/149 IPC at Police Station Qadian, Police District Batala, District Gurdaspur, vide FIR No.49 dated 29.12.2016.

I have heard learned counsel for the petitioner and learned State counsel and given my careful thought to the facts of the case and the submissions made at the Bar.

This Court on 20.01.2017 had passed the following order:

“Learned counsel for the petitioner submits that as a matter of fact, all the injuries on the person of the complainant are actually simple injuries and are, as contended, self-inflicted, with the dispute actually arising earlier after the present petitioner lodged a complaint against the complainant in the current FIR, one Malvinder Singh,

stating that he was trying to dispossess the petitioner from his land. That matter is stated to have been compromised vide Annexured P-6.

Though learned State counsel has opposed the anticipatory bail application, however, in view of the aforesaid contention, I see no reason not to admit the petitioner to interim anticipatory bail, at this stage at least.

Adjourned to 09.02.2017.

In the meanwhile, upon the petitioner joining investigation, if he is sought to be arrested, he would be released on bail to the satisfaction of the arresting officer/Illaq Magistrate, subject to his continued joining of investigation and complying with all conditions stipulated in Section 438 (2) of the Cr.P.C.”

On the adjourned date i.e. 09.02.2017, the following order has been passed:

“Learned counsel for the State, on instructions from ASI Kulwinder Singh, who is present in Court to assist him, submits that the petitioner has joined the investigation, but the alleged weapon of offence has still not been recovered from him.

Of course the issue would be as to whether the injuries in question, are self inflicted or actually inflicted by the petitioner but no comment with regard thereto is being made at this stage, the dispute actually seemingly being actually arising from a land dispute, which the parties hopefully may decide to settle among themselves, before the next date of hearing.

Adjourned to 10.03.2017.

Interim order to continue till the next date of hearing.”

Thereafter, when the case was taken up on 29.03.2017, Mr. Inderjit Sharma, learned counsel representing the complainant informed this Court that yesterday the petitioner has hit the parents of the complainant with his car, which resulted into multiple injuries on their person and that a

complaint in this regard has also been filed before the SHO, P.S. Kahnuwan, District Gurdaspur. Apart from producing the written complaint, he also produced the photocopies of the medical certificates of the injured persons to the effect that they are still under treatment at the hospital. Upon this, while handing over the copies of the complaint as well as the medical certificates to the learned counsel for the petitioner and to the learned State counsel, this Court asked the learned State counsel to take instructions in the matter.

Ultimately, the petitioner moved application bearing CRM No.14569 of 2017 stating that as per investigation of the police pursuant to the representation moved by his father in case FIR No.22 dated 03.04.2017, no such accident took place because nobody went to CHC, Bham, reporting any kind of such accident. Along with the application, the petitioner has annexed the enquiry report of the DSP (Rural-1), Gurdaspur dated 18.04.2017 recommending for cancellation of FIR as Annexure P-8. On instructions, such contention was not refuted by learned State counsel. However, this Court was pleased to issue notice of the application to the learned counsel for the complainant, who is present in Court. On the next date, the case was adjourned on the written request circulated on behalf of learned counsel for the complainant. Today, no one appeared on behalf of the complainant to controvert the contentions raised by the petitioner by way of CRM No.14569 of 2017. Rather, the petitioner moved another application bearing CRM No.20743 of 2017 seeking exemption and to place on record Annexures P-9 and P-10 i.e. enquiry report submitted by the DSP (Rural-1), Gurdaspur and the medical opinion of the Medical Board, which were obtained under the Right to Information Act, 2005.

Keeping in view the fact that the petitioner has joined the investigation, which fact is recorded in the order dated 09.02.2017, I see no reason why the order dated 20.01.2017 should not be made absolute, when matter stands cleared from the enquiry conducted by the DSP (Rural-1), Gurdaspur in case FIR No.22 dated 03.04.2017 that the petitioner is innocent and that this FIR has been registered to get the instant anticipatory bail declined.

Accordingly, without expressing any opinion on the merits of the case, all the applications are allowed. The order dated 20.01.2017 granting interim bail to the petitioner is made absolute. The petitioner is directed to join the investigations and fully cooperate with the Investigating Officer/Arresting Officer. In the event of arrest, the petitioner shall be released on ad interim anticipatory bail in case FIR No.49 dated 29.12.2016 to the satisfaction of the Arresting Officer. He shall also abide by the conditions specified under Section 438(2) Cr.P.C.

10.07.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>