

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

CRM-M No. 56750 of 2018

Date of decision : 17.12.2018

Mukesh Kumar

.....Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. B. D. Sharma, Advocate for the petitioner.

* * *

DAYA CHAUDHARY, J.

Petitioner Mukesh Kumar has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the “Code”) for grant of anticipatory bail to him in case FIR No.331 dated 24.12.2004 under Sections 325, 506, 34 of the Indian Penal Code, 1860 (Section 307 IPC added later on), registered at Police Station – Division No.6, Jalandhar.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case, whereas he was no involved. The sister of the petitioner was married with the complainant in the year 1992 without consent of her family members. As per the allegations in the FIR, the complainant was not on visiting/speaking terms with the petitioner and property dispute was also pending between them. A civil suit was filed by the petitioner against his sister and brother on the basis of Will executed by

the mother of the petitioner by relinquishing her property in favour of the petitioner and by excluding the wife of the complainant. Learned counsel also submits that there was inordinate delay of about two days in lodging the FIR and no explanation was given by the complainant. Learned counsel submits that initially the interim order was passed in favour of the petitioner by staying his arrest and in pursuance of said interim order, the petitioner joined investigation but thereafter, the petition was dismissed on 29.07.2005. Learned counsel also submits that the investigation has been completed and a detailed cancellation report has been filed before the JMIC, Jalandhar on 21.05.2006. Thereafter, the learned Magistrate without considering the cancellation report, rejected the same and a direction was given to get the matter investigated properly. Subsequently, the investigation was carried out by the Additional Deputy Commissioner of Police, Jalandhar and again cancellation was recommended. Learned counsel submits that two different contrary views came during the investigation. There are three cancellation reports presented by the investigating agency and the learned Magistrate was not in a position to give *prima facie* finding that the petitioner had committed any offence and, therefore, he was held entitled for bail. Still bail application filed by the petitioner has been dismissed. The present petition has been filed under the changed circumstances.

Heard arguments of learned counsel for the petitioner and I have also perused the contents of the FIR and other documents available on the file. I have also perused order dated 19.11.2018, whereby bail

application was dismissed by learned Addl. Sessions Judge, Jalandhar.

Initially the FIR was registered under Sections 325, 506, 34 IPC but as per opinion of the doctor, injury was on the head of the complainant, which was declared dangerous to life and offence under Section 307 IPC was added. On three occasions cancellation report was submitted by the police but it was not accepted by the Court. First cancellation report was rejected and reinvestigation was ordered. Thereafter, on submission of cancellation report, it was again rejected and thereafter, third time cancellation report was submitted by taking the cognizance of the offence. As per opinion of learned JMIC, it was found to be a case under Section 307, 34 IPC against the accused and accused-petitioner was ordered to be summoned through bailable warrant by holding that anticipatory bail in such a case of serious nature is likely to hamper the investigation. Earlier petition for anticipatory bail was dismissed upto level of High Court and thereafter by Hon'ble the Apex Court.

Keeping in view the nature of offence and that the cancellation report has been rejected by the Court, no ground is made out to release the petitioner on anticipatory bail as not only it has been dismissed by this Court earlier but same has been dismissed by Hon'ble the Apex Court as well.

Dismissed.

However, the petitioner is at liberty to surrender before the trial Court and move an application for regular bail within a period of one week from the date of receipt of certified copy of this order and in case he does

so, the trial Court is directed to consider the same in accordance with law and pass necessary order within a period of one week thereafter.

17.12.2018

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No