

203

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40583-2018
Date of decision-13.05.2019

Baldev Singh

....Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Ish Puneet Singh, Advocate for the petitioner.

Mr. Harsimar Singh Sitta, AAG, Punjab.

Mr. HPS Ghuman, Advocate for the complainant.

MANOJ BAJAJ, J.

This petition has been filed by the petitioner under Section 438 Code of Criminal Procedure for grant of anticipatory bail in case FIR No.15 dated 03.06.2018 under Sections 323 and 324 read with Section 34 of Indian Penal Code (Section 326 IPC added later on) registered at Police Station City Zira, District Ferozepur The petitioner apprehended his arrest at the hands of Police.

In compliance of the order dated 13.03.2019, report of Superintendent of Police, Ferozepur has been filed on behalf of the State which is taken on record wherein, it has been concluded that challan be presented against the accused.

Learned counsel for the petitioner has invited the attention of

the Court to the order dated 14.09.2018 whereby while issuing notice of motion to the respondent-State, the interim protection was extended to the petitioner. The said order reads as under:-

“Learned counsel for the petitioner submits that the occurrence allegedly took place in Court Complex, Zira, District Ferozepur and FIR was got registered after two days of the incident. The injury which was alleged to be grievous in nature is also on non-vital part of the body.

Notice of motion for 03.12.2018.

Petitioner is directed to surrender before the police and join investigation within a week. In the event of his arrest being required, he shall be released on interim bail till the next date, subject to his furnishing bonds to the satisfaction of Arresting Officer. However, he shall abide by the terms and conditions as envisaged under Section 438(2)(i) to (iv) Cr.P.C. failing which he shall lose the benefit of interim bail allowed to him.”

Learned counsel for the petitioner further contends that in deference to the said order, the petitioner submitted himself before the Police and joined the investigation. According to him, the petitioner cooperated with the Police Authorities during the investigation and furnished requisite bonds to the satisfaction of the Investigating Officer/Arresting Officer.

Learned State counsel on instructions from ASI Gurdeep Singh states that weapon of offence i.e.kappa is yet to be recovered, therefore, custodial interrogation is required.

Learned counsel appearing on behalf of the complainant has also opposed the bail application on the ground that it is not a fit case where the concession of anticipatory bail should be extended to the petitioner-accused. He further placed reliance upon a judgment passed by this Court, titled as “***Jagsir Singh Vs. State of Punjab and another***” 2013 (7) R.C.R. (Criminal) 1853, to contend that this Court has proceeded to dismiss the application for grant of pre-arrest bail, as dowry articles were yet to be recovered.

The said judgment may not be applicable in the present case, particularly in view of the two views already expressed by the Investigating Officer and Inquiry officer, as noticed in the order dated 13.03.2019. However, it is not disputed by learned counsel for the complainant that there is conflicting report regarding the involvement of the petitioner as noticed in the order dated 13.03.2019, which reads as under:-

“Learned counsel for the petitioner has filed his power of attorney after having no objection from the earlier counsel.

Learned counsel for respondent-State submits that in the initial investigation conducted by DSP and SP (Headquarters), the petitioner has been found guilty and thereafter on an application moved by the petitioner, reinvestigation was conducted by SP (Investigation), in which, the petitioner has been found innocent. Learned counsel further contends that Inspector General after considering all the reports found the petitioner to be involved in the offence.

Learned counsel for respondent-State has filed inquiry

report of SP (Investigation) in Court today and the same is taken on record.

Learned State counsel is directed to place on record other two inquiry reports.

Adjourned to 23.4.2019.

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

It is also not disputed that the alleged occurrence took place when the parties had allegedly gone to attend the date of hearing before the Court in respect of their matrimonial dispute. At this stage, learned counsel for the petitioner contends that offence punishable under Section 326 IPC was added subsequently i.e. on 16.06.2018.

Considering the above, the petition is allowed and the interim bail granted by this Court vide order dated 14.09.2018 is made absolute. However, it is made clear that this order shall remain operative till the filing of the final report under Section 173 (2) Cr.P.C.

The petition stands allowed.

(MANOJ BAJAJ)
JUDGE

13.05.2019

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No