

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

CRM-M-32689-2019

Date of decision: 16.08.2019

Bhim Singh

.. Petitioner

vs.

State of Haryana and another

.. Respondents

Coram: Hon'ble Mr. Justice Amol Rattan Singh

Present:- Mr. Prashant Chauhan, Advocate for the petitioner.

Mr. Surinder Singh, AAG, Haryana

Amol Rattan Singh, J.

On 5.8.2019 the following order had been passed:-

“With the Bar abstaining from work, a person who has shown his name to be Nitesh Kumar son of Rohtash Singh (as per his PAN card), has appeared and stated that he is a cousin of the petitioner, Bhim Singh.

He has submitted that the petitioner not having been named in the FIR, wherein offences punishable under Sections 147/148/323/364 of the IPC are alleged to have been committed, he may be granted the concession of anticipatory bail.

It is seen that in the FIR it is alleged that the motorcycle of the complainant was blocked by '3-4 boys' who parked their car in front of his motorcycle and lifted him to the car, with one of the said boys having thereafter ridden the complainants' motorcycle, which followed the car in which the complainant had allegedly been forcibly taken.

The complainant is stated to have been taken to some fields and beaten up with hockey sticks and wooden logs, one of such assailants named to be Gautam son of Chunia Lal, r/o Yadav Nagar, Rewari, another named as Rinku son of Balraj Sarpanch, with the third person named to be one Narinder and yet another being Dany son of Dagar.

As per the complainant, he did not know the name of the person riding his (complainants') motorcycle but as per his knowledge he lived in Chiranjiv Colony.

The complainants both hands and legs are stated to have been caused fractures due to the beating.

Without making any comment on the complicity of the petitioner in the alleged commission of the crime, or otherwise, let notice of motion be issued, returnable on 16.8.2019.

It is made clear that there is no interim order operating in this case presently.”

Today, counsel for the petitioner points to the affidavit of the complainant in the FIR (Kapil son of Bajinder Singh), a copy of which has been annexed as Annexure P/2 with the petition, stating therein that the petitioner, i.e. Bhim Singh son of Malkhan Singh, is not involved in the present case and is completely innocent, (the vernacular version of which is also on record).

Learned counsel for the petitioner submits that the complainant himself is also present in the Court and would make a statement to that effect.

The person who is shown to be the complainant, identified by ASI Veer Singh from Police Station City Rewari, submits 'in tune' with the affidavit filed.

Learned State counsel submits that the complainant himself has turned hostile in his testimony before the trial Court, qua all the accused.

The complainant himself having filed the aforesaid affidavit, without making any comment on the actual merits of the case for or against the petitioner, and without making any comment as to whether the complainant has been put to any threat or not, the petition is allowed in the aforesaid circumstances, with the petitioner to join investigation as and when summoned, subject further to his complying with the all conditions stipulated in Section 438 (2) Cr.P.C.

Disposed of in the above terms.

August 16, 2019
dinesh

(Amol Rattan Singh)
Judge