

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

CRM-M No.14545 of 2020 (O&M)
DATE OF DECISION : 03.11.2020

Aman Kapoor

.....Petitioner

versus

State of Punjab

.....Respondents

CORAM:- HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Saurabh Arora, Advocate for the petitioner

Mr. Ramandeep Sandhu, Senior Deputy Advocate General,
Punjab

..

ALKA SARIN, J.

Heard through video conferencing.

This is a petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.96 dated 19.05.2020 under Sections 307/341/506/109/120B & 34 of the Indian Penal Code, 1860 registered at Police Station Sahnewal, District Police Commissionerate, Ludhiana.

The FIR was recorded on the basis of a statement of Shesmani Panday who had stated that he worked in IDBI Bank and on 19.05.2020 his brother namely Nagmani Panday left home for some work at about 6.10 P.M. When he (Nagmani Panday) reached 33 Feet Road near Devraj Diary, three youngsters came on a motorcycle from the front side and intentionally hit his brother's motorcycle. The said three persons had iron rods, kirpan, knives and they surrounded the brother of the complainant and with an intention to kill hit him on his head and arm and after hitting with the *Dah* they amputated the arm and gave blows to his whole body. All the injuries were alleged to have been made with sharp-edged weapons. It has further been alleged that the motive behind the occurrence was that

earlier Nirmal Singh had got attacked the complainant's brother and had threatened to kill the complainant and his brother. A case had been got lodged by the complainant's brother against the PA of Nirmal Singh namely Rakesh Kumar and Rupesh Kumar, Ravi, Ram Dayal etc. It is further alleged in the FIR that the complainant was sure that the murderous attack on his brother was also committed in conspiracy by Nirmal Singh SS, his PA Rakesh Kumar and Rupesh Kumar etc. It was further stated that legal action be taken against Nirmal Singh SS, Rupesh Kumar, Ram Dayal, Ravi, Rohit, Aman Saini, Ramesh, etc. and 4/5 unknown persons.

Vide order dated 03.07.2020, interim protection was granted to the petitioner herein. It had been contended on behalf of the petitioner that it was a case of mistaken identity. After the grant of interim protection to the present petitioner vide order dated 03.07.2020, CRM-M-19195-2020 was filed by the co-accused Dalip Kumar for grant of anticipatory bail. In this petition, the order granting interim protection to the present petitioner has been attached as Annexure P-7. On 13.08.2020 a third case pertaining to the same FIR being CRM-M-22949-2020 was filed by co-accused Ravi @ Banga for grant of regular bail. In this petition, the order granting interim protection to the present petitioner has been attached as Annexure P-4. The three cases have been listed for hearing on the same dates.

On 27.08.2020, the three cases i.e. the present case, CRM-M-19195-2020 filed by Dalip Kumar and CRM-M-22949-2020 filed by Ravi @ Banga came up for hearing before this Court. On 27.08.2020 interim protection was granted to Dalip Kumar in CRM-M-19195-2020 and status reports were called for from the State in all the matters. On 04.09.2020 interim bail was granted to Ravi @ Banga in CRM-M-22949-2020.

A status-report dated 18.09.2020 has been filed in the present case by way of affidavit of Jashandeep Singh Gill, PPS, Assistant Commissioner of Police (South), Ludhiana, in compliance of the orders dated 27.08.2020 wherein it has been stated that the CD, which has been produced by the petitioner with the petition as Annexure P-4, has been

minutely examined in which it is visible that the complainant's brother was going on a motorcycle and the present petitioner and his two co-accused came from the front side and struck their motorcycle with the motorcycle of the injured. Thereafter, the petitioner and the two co-accused got down from the motorcycle. The petitioner, who had muffled his face, caught hold of the injured from the throat and threw him on the ground and then the present petitioner gave kick blows to the injured and the other two accused gave the injured *Dah* blows. The CD has been made a part of the challan/final report under Section 173 CrPC presented against the co-accused. It has further been stated in the status report that the injured had received 12 injuries on the head, ear, chest, arm, elbow and finger. Out of the 12 injuries, 7 were grievous in nature and one injury was stated to be dangerous to life.

In CRM-M-22949-2020 (Ravi @ Banga vs. State of Punjab), status-reports dated 02.09.2020 and 18.09.2020 have been filed by way of affidavit of Jashandeep Singh Gill, PPS, Assistant Commissioner of Police (South), Ludhiana, in compliance of the orders dated 27.08.2020 and 04.09.2020. As per the status report dated 02.09.2020, the injured had received 12 injuries on the head, ear, chest, arm, elbow and finger. Out of the 12 injuries, 7 were grievous in nature and one injury was stated to be dangerous to life. It has further been stated that on 23.05.2020 a supplementary statement of the complainant (Shesmani Panday) was recorded where it was alleged that the attack had been got done by Ravi @ Banga through assailants Rupesh Kumar, Aman Saini and Gagandeep Singh. It was also stated that before committing the attack the recce/watch of the complainant's brother was done by Dalip Saini. Accordingly, Gagandeep Singh and Dalip Saini were nominated as accused on 23.05.2020 and assailants Rupesh Kumar and Aman Saini were already named in the FIR. It has further been stated that on 28.05.2020 the complainant made another supplementary statement alleging that Ravi @ Banga, Nirmal Singh SS etc. hatched a criminal conspiracy and had earlier

also got the brother of the complainant attacked and that on the date of the occurrence i.e. 19.05.2020 Dalip Saini had done a recce/watch on the complainant's brother and given information to the assailants i.e. Rupesh Kumar, Gagandeep Singh and Aman Saini who, at the instance of Ravi @ Banga, Nirmal Singh SS etc., waylaid him. It was further stated that Aman Saini threw the complainant's brother on the road and then Rupesh Kumar and Gagandeep Singh caused injuries to him with iron *Dahs*. The injury report pertaining to the injured (Nagmani Panday) prepared by SPS Hospitals has been annexed with this status report. It is also stated that Rupesh Kumar and Gagandeep Singh were arrested on 23.05.2020 and 26.05.2020 and Ravi @ Banga was arrested on 30.05.2020. As per the status report dated 18.09.2020, the statement of the injured (Nagmani Panday) was recorded by the Investigating Officer on 07.06.2020 wherein he stated assailants Rupesh Kumar Giri, Raminder Singh @ Gagandeep Singh @ Gaggu and Aman Saini had come on Motorcycle No.PB-91C-4326 and that there were 2/3 other motorcycles also on which Ravi @ Banga, Rakesh Kumar Giri, Ram Dayal, Ramesh, Dalip Saini and Rohit had come and they were having sharp-edged weapons in their hands and they stopped a little behind. It is also stated in this status report that Aman Saini and Aman Kapoor is one and the same person.

This Court vide order dated 03.07.2020 had granted anticipatory bail to the petitioner on the basis of the argument made by the learned counsel for the petitioner that it was a case of mistaken identity. A perusal of the order passed by the Additional Sessions Judge dated 30.05.2020 reveals that no such argument had been raised before that Court. Further, in the status report filed by the State in the present case it has specifically been stated that the CD attached as Annexure P-4 has minutely been examined and the present petitioner was seen present and he gave kick blows to the injured and the other two accused gave *Dah* blows. The CD has also been made a part of the challan/final report presented against the co-accused. As per the MLR attached with the status report, the

brother of the complainant received 12 injuries on the head, ear, chest, arm, elbow and finger. Out of the 12 injuries, 7 were grievous in nature and one injury was stated to be dangerous to life and the injured remained admitted in hospital from 19.5.2020 to 27.05.2020. As per the copy of the MLR, the injury stated to be dangerous to life is injury at Serial No.4 which is longitudinal laceration on parietal region (6x2x2 cms). It is also to be noticed that injury at Serial No.12 was of the left hand middle finger which was partially amputated and was hanging with the skin tag and was stated to be grievous in nature. Further, as per the status report dated 18.09.2020 filed in CRM-M-22949-2020, Aman Kapoor and Aman Saini are one and the same person and that the petitioner herein has specifically been named in the FIR.

The present petitioner has been named in the FIR, in the supplementary statement dated 23.05.2020 made by the complainant (Shesmani Panday) and also in the statement of the injured (Nagmani Panday) recorded by the Investigating Officer on 07.06.2020. The present petitioner has actively participated in the heinous attack and the presence of the petitioner is verified from the CCTV footage. The role of the present petitioner needs to be investigated. The injured has received as many as 12 injuries 7 of which were grievous in nature and one injury was stated to be dangerous to life.

In view of the above, the interim anticipatory bail granted to the petitioner vide order dated 03.07.2020 stands cancelled. The present petition stands accordingly dismissed.

However, any observation made herein shall not be construed as an expression of opinion on the merits of the case.

03.11.2020
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(ALKA SARIN)
JUDGE

NOTE:

Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO