

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

203

**CRM-M-15624-2020
Date of decision: 08.09.2020**

Raju Kumar @ Raja Chah Wala

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Damanjit Singh Sandhu, Advocate
for the petitioner.

Mr. Harsimar Singh Sitta, Asstt.A.G. Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (first) petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No. 03 dated 04.01.2019 registered under Sections 341, 324, 323, 506, 148 and 149 of the Indian Penal Code, 1860 (for short, “the IPC”) at Police Station Moti Nagar, District Ludhiana to which Sections 308, 326 and 201 of the IPC were added later on.

The above said FIR was registered on statement of Akash who alleged that on the night intervening 31.12.2018/01.01.2019 at about 00:30 a.m. when he along with his friend Suraj Kumar @ Sanje was returning on Bullet Motorcycle bearing registration No. PB-91-6434 from Fauji Colony Sherpur Kalan, Ludhiana after celebrating New Year Eve, accused Raju Chah Wala, Rehan, Pappu Sherpuria and

Tillu and 4/5 other unknown persons stopped and attacked them. Raju Chah Wala gave two blows with iron toka on his forehead and back while Tillu gave blows on his head with baseball bat. Accused Pappu gave two blows one on his head and another on his back and Ryan gave blows with Iron toka on his legs. The accused also gave fist blows to Suraj Kumar @ Sanje. Accused Pappu also snatched gold chain and thereafter all the accused fled from the spot with their respective weapons.

Apprehending his arrest, the petitioner filed the present petition.

While issuing notice of motion on 18.06.2020, the Coordinate Bench of this Court had granted interim anticipatory bail to the petitioner with direction to join the investigation.

As per office report, respondent No.2 was telephonically informed but none has appeared for respondent No.2.

Learned State Counsel has appeared on behalf of the respondent-State and opposed the petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

Learned counsel for the petitioner has submitted that the petitioner was falsely implicated in the present case. There was unreasonable and undue delay of three days in lodging of the FIR. The complainant has given affidavit that the petitioner was not involved in the occurrence. In compliance with order dated 18.06.2020 the petitioner has joined the investigation. Nothing is to be recovered from him and his custodial interrogation is not required.

On the other hand, learned State Counsel has submitted that the petitioner caused injury with iron toka on the head of injured-Akash and does not deserve grant of regular bail. Therefore, the petition may be dismissed.

However, learned State counsel has acknowledged that in compliance with order dated 18.06.2020 passed by the Coordinate Bench of this Court, the petitioner has joined the investigation and that his custodial interrogation is not required for effecting any recovery.

In view of the facts and circumstances of the case, affidavit allegedly given by the complainant and the fact that custodial interrogation of the petitioner is not required in the case but without expressing any opinion on the merits of the case, I am of the considered view that the petitioner deserves the concession of anticipatory bail.

Therefore, the petition is allowed and order dated 18.06.2020 granting interim bail to the petitioner is made absolute. However, the petitioner shall join the investigation again if and as and when called upon to do so and shall abide by the conditions enumerated in Section 438 (2) of the Cr.P.C., failing which the protection of anticipatory bail order shall not be available to him.

08.09.2020

Vishal

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No