

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

-.-

CRM-M-16328-2020 (O&M)

Date of decision : 29.09.2020

Mohit Kumar Pandey

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Robin Dutt, Advocate, for the petitioner.

Mr. Amandeep Gill, Sr. DAG, Punjab.

Mr. Ajay Kumar Sharma, Advocate, for the complainant.

ALKA SARIN, J. (ORAL)

Heard through Video Conferencing.

This is a petition under Section 438 of the Code of Criminal Procedure, 1973 for the grant of pre-arrest bail in FIR No.69 registered under Sections 307, 364, 392, 323, 324, 148, 149 of the Indian Procedure Code, 1860 and Section 325 IPC, added later on, dated 03.05.2020 at Police Station Kharar, District SAS Nagar.

On 24.06.2020, the following order was passed:-

“Heard through video conferencing

This is a petition under Section 438 of the Code of Criminal Procedure, 1973 for the grant of pre-arrest bail in FIR No.69 registered under Sections 307, 364, 392, 323, 324, 148, 149 of the Indian Procedure Code, 1860 and Section 325 IPC, added later on, dated 03.05.2020 at Police Station Kharar, District SAS Nagar.

It has been contended by learned counsel for the petitioner that the petitioner was admitted in the De-addiction Centre having capacity of treating 10 people. However, over 20 people were admitted there which led to a protest by the persons admitted there. During the protest, the persons admitted in the De-addiction Centre attacked the complainant, the petitioner was one of them. In the FIR only simple injury has been attributed to the petitioner.

Notice of motion returnable on 29.09.2020.

On the asking of the court, Ms. Monika Jalota, DAG, Punjab has joined the session through video conferencing and accepts notice. A complete copy of the petition already stands furnished to the learned DAG. She, however, seeks some time to complete her instructions.

Meanwhile, the petitioner shall join the investigation and would come present as and when called. In the event of arrest, the petitioner shall be admitted to bail on furnishing adequate surety and personal bonds to the satisfaction of the Arresting Officer. The petitioner shall abide by all terms and conditions as specified under Section 438(2) of the Criminal Procedure Code, 1973”

Thereafter, two separate petitions were filed by co-accused being CRM-M-18935-2020, titled “*Gurjeet Singh Vs. State of Punjab*” and CRM-M-17659-2020, titled “*Jaswant Singh Vs. State of Punjab*”. The said petitions were also filed under Section 438 CrPC for grant of anticipatory bail to the petitioners therein in FIR No.69 i.e. the same FIR as that in the present case.

During the course of hearing in the above noted petitions, learned counsel appearing for the State had placed on record a video which was shot by one of the co-accused and was eventually handed over to a reporter of APS Channel who posted the same on Facebook page. Today, learned State counsel has also brought to the notice of this Court that though the petitioner has joined investigation however he was not cooperating.

In the present case, though on 24.06.2020 interim anticipatory bail was granted to the petitioner, however, subsequently, during the hearing of CRM-M-18935-2020 and CRM-M-17659-2020, on 15.07.2020, the State counsel had brought to the notice of this Court a video of the complainant which was shot by the accused and thereafter handed over to a reporter of APS Channel, who posted the same on his Facebook page. This Court, after hearing the parties, had dismissed both the petitions filed for anticipatory bail. The present petitioner, though has been attributed a simple injury, however, the fact remains that he was a part of the group who had not only carried out an attack but is also seen in the video, which was shared with this Court via Whatsapp. All the co-accused in the present case have not only attacked the complainant but had also made a video of the incident and handed it over to a reporter who had thereafter posted the same on the Facebook page. Further the petitioner is not even co-operating with the investigating officer. The petitioner as well as the other co-accused prima facie not only seem to have beaten the complainant mercilessly but also took a video of him in that condition and thereafter aided in the posting of the same on the Facebook page.

Learned counsel for the complainant, who has also put in appearance in this case, has confirmed the fact that the present petitioner is also seen in the video which has been shared with this Court.

In view of the above, I do not deem it to be a fit case for grant of anticipatory bail. In view of the above and the fact that petitioner is not cooperating with the Police, the present petition is dismissed.

It is however, made clear that no observation made herein shall be treated as an expression of opinion of this court on the merits of the case.

September 29, 2020
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(ALKA SARIN)
JUDGE

NOTE:

Whether speaking/non-speaking: Yes/No
Whether reportable: Yes/No