

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

204

CRM-M-16499-2020 (O&M)

Date of decision: 05.11.2020

Yogesh Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Rao Ajender Singh, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana
for the respondent-State.

Ms. Sumanjit Kaur, Advocate
for the complainant.

ARUN KUMAR TYAGI, J (ORAL)

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

CRM-27173-2020

Prayer in this application is for amending the prayer clause and head note of the petition by adding therein offence under Section 326 of the Indian Penal Code, 1860 (for short, "the IPC").

Learned State Counsel and learned Counsel for the complainant have no objection if the application is allowed.

In view of the facts and circumstances of the case and no objection, the application is allowed and Section 326 of the IPC is allowed to be added in the prayer clause and head note of the petition.

Registry is directed to carry out the necessary amendment by addition of the offence in the head note and prayer clause of the petition.

CRM-M-16499-2020

The petitioner has filed the present (first) petition under Section 438 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C") for grant of anticipatory bail in case FIR No.54 dated 24.02.2020 registered at Police Station Nangal Chaudhary, District Mohindergarh under Sections 323, 324, 379-B, 427, 452 and 506 read with Section 34 of the IPC to which Section 326 of the IPC was added lateron.

While issuing notice of motion on 30.06.2020, Coordinate Bench of this Court had granted interim anticipatory bail to the petitioner with direction to join the investigation and relevant part of the order reads as under:-

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

Through this petition under Section 438 Cr.P.C. prayer has been made for grant of anticipatory bail to the petitioner in case FIR No.54 dated 24.02.2020, registered under Sections 323, 324, 379-B, 427, 452, 506, 34 IPC, at Police Station Nangal Chaudhary, District Mohindergarh.

According to prosecution, in the evening of 23.02.2020, petitioner and his two companions, coming in a swift car, attacked the complainant with their respective weapons. They caused damaged to the articles lying in the shop of the complainant and while fleeing, snatched away Rs.23,000/-, one laptop Lenovo Ideapad 200, two mobiles and one HP printer.

Notice of motion for 15.09.2020.

Ms. Sumanjit Kaur, Advocate has filed vakalatnama on behalf of complainant on his own, though he has not been impleaded as a party. Same is taken on record. Be tagged at appropriate place. She submits that she has no

objection in case, petitioner is granted bail in view of affidavit regarding compromise (Annexure P-2), between the parties.

Considering, the overall facts and circumstances of the case, petitioner is directed to join investigation and would come present as and when called for and in the event of arrest, he shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of the Arresting/Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438 (2) Cr.P.C."

The petition has been opposed by the learned State Counsel in terms of reply filed by way of affidavit of Raj Singh, HPS, Deputy Superintendent of Police, Narnaul.

I have heard learned Counsel for the petitioner, learned State Counsel and learned Counsel for the complainant and have gone through the record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. The petitioner was not named in the FIR and his name has figured in the disclosure statement of his co-accused Hitender. The injuries caused are attributed to co-accused Hitender. The complainant has given an affidavit to the police that the petitioner was not involved in the occurrence. In compliance with order dated 30.06.2020, the petitioner has joined the investigation.

Learned Counsel for the complainant has admitted the execution of the affidavit that the petitioner was not involved in the occurrence.

Learned State Counsel has vehemently opposed the

petition and submitted that in view of gravity of accusation, the petitioner does not deserve grant of anticipatory bail and the petition may be dismissed.

However, learned State Counsel has, on instructions from ASI Shiv Parkash, acknowledged that in compliance with order dated 30.06.2020 passed by 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, nature of accusation against the petitioner, the fact that custodial interrogation of the petitioner is not required in the case and there is no material to justify the apprehension of the petitioner fleeing from justice or tempering with evidence or criminally intimidating the prosecution witnesses but without expressing any opinion on the merits of the case, I am of the considered view that the petitioner deserves the grant of anticipatory bail.

In view of the above, the petition is allowed and order dated 30.06.2020 granting interim anticipatory bail to the petitioner is made absolute which order will also extend to the offence under Section 326 of the IPC. 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.

05.11.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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