

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

CRM-M No.19195 of 2020 (O&M)
DATE OF DECISION : 03.11.2020

Dalip Kumar

.....Petitioner

versus

State of Punjab

.....Respondent

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 307/341/506/109/120-B & 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.

On 06.06.2020 CRM-M-14545-2020 was filed by one of the accused, Aman Kapoor, for grant of anticipatory bail. Vide order dated 03.07.2020, interim protection was granted to the said Aman Kapoor. After the grant of interim protection to the accused Aman Kapoor vide order dated 03.07.2020, the present petition was filed by the present petitioner for grant of anticipatory bail. It was contended on behalf of the petitioner that the petitioner was not named in the FIR and that his name was nominated in the disclosure statement of the co-accused (Rupesh Kumar Giri) and that even in this disclosure statement no injury to the victim was attributed to the petitioner. In the present petition, the order granting interim protection to Aman Kapoor has been attached as Annexure P-7. On 17.07.2020 the present case was ordered to be heard along with CRM-M-14545-2020 (Aman Kapoor vs. State of Punjab). On 13.08.2020 a third case pertaining to the same FIR being CRM-M-22949-2020 was filed by another co-accused Ravi @ Banga for grant of regular bail. In this petition (CRM-M-22949-2020), the order granting interim protection to Aman Kapoor 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-14545-2020 filed by Aman Kapoor 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 the present petitioner also and status reports were called for from the State in all the matters. On 04.09.2020 interim bail was granted to the co-accused Ravi @ Banga in CRM-M-22949-2020.

A status-report dated 18.09.2020 has been filed in CRM-M-14545-2020 (Aman Kapoor vs. State of Punjab) by way of affidavit of Jashandeep Singh Gill, PPS, Assistant Commissioner of Police (South), Ludhiana wherein it has been stated that the CD, which has been produced in that case as Annexure P-4, has been minutely examined in which it is visible that the complainant's brother was going on a motorcycle and Aman Kapoor and his two co-accused came from the front side and struck their motorcycle with the motorcycle of the injured. Thereafter, Aman Kapoor and the two co-accused got down from the motorcycle. Aman Kapoor, who had muffled his face, caught hold of the injured from the throat and threw him on the ground and then he 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. 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 27.08.2020 had granted interim anticipatory bail to the petitioner on the basis of the argument made by the learned counsel for the petitioner that the petitioner was not named in the FIR and that his name was nominated in the disclosure statement of the co-accused (Rupesh Kumar Giri) and that even in this disclosure statement no

injury to the victim was attributed to the petitioner. However, there is no denying the fact that the petitioner has been named by the complainant in his supplementary statements dated 23.05.2020 and 28.05.2020. The petitioner was part of the conspiracy and kept a watch on the complainant's brother and his movements and informed the assailants about the same. Further, 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 in which the petitioner is named along with others as being present with sharp-edged weapons when the attack on him (Nagmani Panday) took place. As per the MLR, 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.

The petitioner has not denied that he and Dalip Saini are the same person. Infact, in CRM-19695-2020 filed by the petitioner it is stated that he has been named in the disclosure statement. The name appearing in the disclosure statement is Dalip Saini. Thus, there can be no escape from the involvement of the petitioner in the heinous attack on the injured (Nagmani Panday), his name appearing in the supplementary statements made by the complainant and the statement made by the injured. The role of the present petitioner needs to be investigated. The attack on the injured left him with 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 27.08.2020 stands cancelled. The present petition accordingly stands dismissed.

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

(ALKA SARIN)
JUDGE

03.11.2020
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