

202 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22932 of 2020

Date of Decision : 12.10.2020

Sachin

...Petitioner

Versus

State of Punjab

...Respondent

(Through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. N.S. Sodhi, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

Harsimran Singh Sethi, J. (Oral)

Petitioner is seeking anticipatory bail in FIR No.123 dated 20.06.2020 under Sections 307, 452, 324, 427, 506, 148, 149 of IPC registered at Police Station Jodhewal, District Ludhiana.

Learned counsel for the petitioner contends that the petitioner has joined investigation in terms of order passed by this Court on 17.08.2020. Order dated 17.08.2020 is as under:-

Present petition has been filed under Section 438 of the Cr.P.C. for the grant of anticipatory bail to the petitioner in respect of FIR No. 123 dated 20.06.2020, under Sections 307, 452, 324, 427, 506, 148, 149 IPC, registered at Police Station Jodhewal, District Ludhiana.

Learned counsel for the petitioner argues that petitioner is not named in the FIR and has only been roped in on the basis of disclosure statement of the co-accused, namely, Kunal Kumar. Learned counsel for the petitioner further argues that no role has been attributed to the petitioner with regard to the inflicting of the injuries upon the victim. Learned counsel submits that none of the injury, has been declared grievous so as to invite Section 307 IPC. Learned counsel for the

petitioner further states that a similarly situated co-accused, namely, Mohd. Hussain Reja has already been granted the benefit of anticipatory bail by this Court while deciding CRM No. M-20586 of 2020 on 28.07.2020.

Notice of motion.

Mr. Sandeep Singh Deol, learned Deputy Advocate General, Punjab, who has also joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State. Learned State counsel very fairly submits that injuries inflicted upon the victim are simple in nature & not grievous and no injury is attributed to the petitioner. He further concedes that petitioner is not named in the FIR and has been arrayed on the disclosure statement of co-accused, namely, Kunal Kumar as well as that similarly situated co-accused, namely, Mohammad Hussain Reja has already been granted the benefit of anticipatory bail by this Court while deciding CRM No. M-20586 of 2020 on 28.07.2020.

I have heard learned counsel for the parties and have gone through the record carefully.

In the present case, petitioner has not been named in the FIR and no specific injury has been attributed to the petitioner. Further, as conceded by the learned State counsel, all the injuries inflicted upon the victim are simple in nature. Similarly situated co-accused has already been granted the benefit of anticipatory bail by this Court while deciding CRM

No. M-20586 of 2020 on 28.07.2020. The said order is as under:-

“Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions. Petitioner seeks concession of pre-arrest bail in FIR No.123 dated 20.6.2020 registered under Sections 307, 452, 324, 427, 506, 148, 149 I.P.C at Police Station, Jodhewal, District Ludhiana. FIR came to be registered on the statement of Dr. Rajiv Sharma in relation to an alleged occurrence that took place on 20.6.2020. Complainant alleged that while he was sitting in his clinic, 8/9 unknown young boys carrying iron rods and

sharp edged weapons gained forcible entry and assaulted him. Counsel would argue that name of the petitioner doesnot figure in the FIR. He is sought to be implicated on the disclosure statement of co-accused Kunal. Mr. Gaurav Garg Dhuriwala learned Sr. D.A.G., Punjab, who has also joined proceedings on instructions from ASI Surinder Kumar informs the Court that as per disclosure statement of co-accused Kunal, the present petitioner was stated to be armed with a Dah even though, no specific attribution has been made. Learned State counsel further informs the Court that the complainant has suffered four injuries but none of them has been opined to be grievous in nature.

Prima facie there appears merit in the contention raised by counsel for the petitioner that the offence under Section 307 I.P.C whether made out under the circumstances would be debatable.

Notice of motion, returnable for 17.9.2020.

In the meanwhile, petitioner is directed to join investigation. In the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer.

The petitioner shall join investigation as and when called upon to do so and he shall remain bound by the conditions as envisaged under Section 438(2) Cr.P.C.”

In view of the above, petitioner has made out a case for the grant of anticipatory bail.

Petitioner is directed to join the investigation forthwith.

In the event of his arrest, he shall be released on interim bail to the satisfaction of the Arresting Officer/Investigating Officer on his furnishing bail bonds/surety bonds to his/her satisfaction subject to the following conditions(i) That he shall make themselves available for interrogation by the police officer as and when required.

(ii) That he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the said facts to the Court or to any police officer.

(iii) That he shall not leave India without prior permission of the Court.

(iv) That he shall abide by all the conditions as enshrined under Section 438(2) Cr.P.C.

Adjourned to 12.10.2020.

It is, however, made clear that after the petitioner join the investigation, in case any incriminating material comes against the petitioner, the respondent-State will be at liberty to file appropriate application seeking the custody of the petitioner in case, the same is needed.”

Learned State counsel, who has also joined the proceedings through video conference, on instructions from ASI Surinder Kumar, states that in terms of the order of this Court reproduced before, the petitioner has joined the investigation and no further interrogation is required, at this stage.

In view of the above, the order dated 17.08.2020 granting interim bail to the petitioner is made absolute.

However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join investigation as and when called upon to do so.

In case at any given point of time hereinafter, it is felt by the Investigating Agency that petitioner is required for the investigation but is not co-operating, it will be at liberty to approach this Court for passing appropriate orders.

The petition stands disposed of.

October 12, 2020
aarti/naresh k.

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No