

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

206

**CRM-M-26181-2020
Date of decision: 08.10.2020**

GURPREET SINGH

....Petitioner

Versus

STATE OF PUNJAB

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Ms. Isha Goyal, Advocate
for the petitioner.

Mr. Amit Mehta, Senior DAG, 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 petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No. 80 dated 10.06.2020 registered under Sections 323, 326 and 506 read with Section 34 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station Gharinda, District Amritsar.

Vide order dated 04.09.2020 Co-ordinate Bench of this Court, while issuing notice of motion granted interim anticipatory bail to the petitioner with direction to join the investigation. Relevant part of order dated 04.09.2020 reads as under :-

“.....By this petition, the petitioner seeks the concession of anticipatory bail, upon FIR no.80, dated 10.6.2020,

having been registered at Police Station Gharinda, District Amritsar Rural, alleging therein the commission of offences punishable under Sections 326/323/506/34 of the IPC.

Learned counsel for the petitioner draws attention of this court to the order passed on 17.8.2020 in the case of a co-accused of the petitioner, i.e. in CRM-M-20752 of 2020.

The said order reads as follows:-

“On 10.08.2020, the following order had been passed:

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

Pursuant to the order dated 07.08.2020, an affidavit of Sh. Dhruv Dahiya, Senior Superintendent of Police, Amritsar (Rural), has been sent on the 'Whatapp group' 4 of this video conferencing, with it having been forwarded to me by the Reader of this court, as also to learned counsel for the petitioner.

A perusal thereof shows that though the occurrence is stated to have been of 12.04.2020, with the MLR also recorded on that date, however it was printed only on 15.04.2020 and was received in the police station on 02.05.2020 (as per the SSP).

It has further been stated that since the FIR was thereafter registered only on 10.06.2020, with no DDR having been recorded at all, departmental proceedings against ASI Angrej Singh have been initiated and would be taken to their logical conclusion.

Adjourned to 17.08.2020.

The medical record of the injuries received on the side of the complainant, be placed on record by way of an affidavit of a gazetted officer by learned State counsel.”

Today, an affidavit of the Deputy Superintendent of Police, Sub Division Atari, has been sent by of “Whatsapp” communication to the Reader to this court, who has forwarded it to me alongwith the medical opinion as regards the injury on Sharanjit Singh.

Learned State counsel submits that as regards the said medical opinion, two injuries were found to be simple in nature, with one injury said to be grievous in nature but with the doctor having stated that whether the said injury was self inflicted (by friendly hand), or otherwise, could not be determined.

Though the medical opinion could not be fully read by “Whatsapp” communication, yet learned State counsel has read it himself and has stated that injuries on the other injured person, i.e. Harpal Singh, are also stated

to be simple in nature. Keeping in view the above, the petitioner is directed to join investigation and if, upon him so joining, he is sought to be arrested, he shall be released on interim bail, upon him furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Duty Magistrate, till the next date of hearing.

He shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Ilqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation, in terms of the order of this Court.

Adjourned to 01.10.2020.”

Learned counsel for the petitioner today (in the present petition) submits that therefore, with the grievous injury also possibly having been received by a friendly hand as per the opinion of the doctor, though it is attributed to the petitioner, he would also be seeking the same concession as was granted to Gagandeep Singh.

Notice of motion.

Mr.Joginder Pal Ratra, learned DAG, Punjab, accepts notice at the asking of the court.

Without making any comment on the actual merits of the case, the petitioner is directed to join investigation and upon him so joining if he is sought to be arrested, he shall be released on bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilqa Magistrate.

He shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C.

If the investigating officer does not actually join the petitioner in investigation, he would appear before the learned Ilqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation, in terms of the order of this Court.

Adjourned to 1.10.2020.

To be heard alongwith CRM-M-20752 of 2020. ”

The petition has been opposed by learned State Counsel.

However, no reply has been filed on behalf of the State.

I have heard learned Counsel for the petitioner and learned

State Counsel and have gone through the relevant record.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. The alleged grievous injury caused with sharp edged weapon to injured Sharanjit Singh is attributed to the co-accused Gagandeep Singh. As per the medical opinion, the possibility of injury being self inflicted could not be ruled out. The petitioner has joined the investigation and his custodial interrogation is not required.

Learned State counsel has vehemently opposed the petition and submitted that in view of the gravity of accusation, the petitioner does not deserve grant of anticipatory bail and the petition may be dismissed.

However, learned State Counsel on instructions from ASI Angrej Singh has acknowledged that in compliance with order dated 04.09.2020 passed by Co-ordinate Bench of this Court, the petitioner has joined the investigation and also submitted that his custodial interrogation is not required for any purpose.

In view of the facts and circumstances of the case, nature of accusation and evidence against the petitioner and also 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 deserve grant of anticipatory bail.

In view of the above, the petition is allowed and order dated 04.09.2020 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.

08.10.2020
kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

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