

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

101

CRM-M-34080-2020

Date of decision: 28.10.2020

Uday Partap Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present :- Mr. Ashish Aggarwal, Advocate, for the petitioner.

SUVIR SEHGAL J. (ORAL)

The hearing of this petition has been taken up through video conferencing due to the spread of Corona Virus (Covid-19).

This is the third petition under Section 438 of the Code of Criminal Procedure, 1973, for grant of pre-arrest bail to the petitioner in FIR No.112 dated 15.05.2020, registered under Sections 186, 353, 427, 34 (Section 332 was added later on) of the Indian Penal Code, 1860 at Police Station Sujanpur, District Pathankot.

As per the version of the prosecution, FIR in question was registered on the complaint of Dr. Abhay Garg, Medical Officer, performing duty at CHC, Sujanpur, wherein he stated that on 15.05.2020, when he was on duty in the office of Senior Medical Officer (SMO) on account of Covid-19, ANM, Sarabjit, Multipurpose Health Worker

(MPHW) F-CSE, Sujanpur came with her husband, Happy Rai, son Uday (present petitioner) and another person named Sushil Rai, who was carrying a hockey stick. Upon entering the office, the ANM told her accomplice that the complainant fixes her duty improperly. Upon this, all three abused and attacked the complainant as a result of which his spectacles broke. When he tried to run out of the office, they started pushing and dragging him and his surgical gown was torn in the process. The occurrence was witnessed by Smt. Neeru Sharma, SMO and a Radiographer posted at CHC, Sujanpur. The complainant, alleged that all four accused disrupted his duty, assaulted him and action be taken against them.

Counsel for the petitioner has argued that the petitioner has been made a scapegoat at the behest of the complainant and has been falsely roped in to settle a personal score as a legal notice dated 14.05.2020, Annexure P-3, had been served upon the Civil Surgeon Pathankot and the SMO Sujanpur, questioning the home quarantine notice served upon one Dr. Dheeraj Singh Minhas, whose nephew had unfortunately expired a few days earlier. Counsel submits that the alleged incident never took place and rather it was the SMO of the Health Centre who had called the petitioner and his family and had created a scene and tried to overpower the petitioner and his family members as he wanted the mother of the petitioner to take responsibility for the death. Counsel has further placed reliance upon two affidavits, dated 21.07.2020, Annexure P-4, executed by Dr. Nisha Jyoti and Dr. Rajput Unnati.

I have considered the submissions of the counsel for the

petitioner.

A perusal of the FIR is very distressing, particularly the fact that the complainant, who is a senior healthcare worker and was discharging his duties as a Covid Warrior and working under intense pressure, was subjected to verbal and physical assault at the behest of another medical hand. The argument raised by the counsel that the petitioner has been made a scapegoat and the alleged incident never took place, does not have any substance. Even if his mother Sarabjit had some grievance regarding the improper fixing of her duties and had some dispute with the Doctor, there was no reason for the petitioner to go to the office of the complainant accompanied by her family members. It may be noticed that one of the family members is alleged to be carrying a hockey stick. This in itself shows that the intention was to intimidate or even attack the complainant. The petitioner, who is alleged to have slapped the Medical Officer, has been specifically named in the complaint. The concession of anticipatory bail cannot be extended to a person who attacks a Medical Officer in these hard times in his office while he is in the process of discharging his duties and fighting the uncontrollable virus.

The reliance placed by the petitioner upon the two affidavits Annexure P-4, can be of no help to him as their examination show that both the deponents were not present in the office of the SMO when the incident is alleged to have taken place. They came to the office only after they heard the commotion. The two eye-witnesses, namely, Smt. Neeru Sharma, SMO and a Radiographer, who have been mentioned in the FIR,

have however not given any affidavit denying the episode.

The petitioner had earlier approached this Court by filing CRM-M-13221 of 2020 along with his mother. On a request made by the counsel for the petitioner, the petition for anticipatory bail qua the present petitioner was dismissed as withdrawn. The second petition (CRM-M-28587-2020) was withdrawn by the counsel for the petitioner on 18.09.2020 after arguments. The instant third petition has been filed without there being any variation in the facts and circumstances. No change has been pleaded in the petition nor argued by the counsel.

Keeping in view the totality of the facts and circumstances noticed above, no ground is made out for grant of anticipatory bail to the petitioner. Petition is, accordingly, **dismissed**.

It is clarified that any observation made hereinabove shall not be construed to be an expression on the merits of the case.

Howsoever, keeping in view the young age of the petitioner and his unblemished antecedents, in case, the petitioner surrenders before the trial Court within three weeks' from today and files a petition for grant of regular bail, the same shall be decided preferrably on the next working day of its filing, in according with law.

28.10.2020

pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No