

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.5200 of 2020 (O&M)
Date of Decision: January 18, 2021

Rajnish Sharma

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Arjun Veer Sharma, Advocate,
for the petitioner.

Mr.Sandeep Singh Deol, DAG, Punjab.

MANOJ BAJAJ, J. (Oral)

This petition has been filed by the petitioner under Section 438 Code of Criminal Procedure for grant of anticipatory bail in case FIR No.125 dated 30.11.2019, under Sections 452, 323, 427, 148, 149, 506 IPC, 1860 and Section 307 IPC (added later on), registered at Police Station, Commissionerate Ludhiana. The petitioner apprehended his arrest at the hands of police in the above FIR.

Learned counsel for the petitioner has invited the attention of the Court to the order dated 05.02.2020, whereby while issuing notice of motion to the respondent-State, the interim protection was extended to the petitioner. The said order reads as under:-

“Present petition under Section 438 Cr.P.C. is for grant of anticipatory bail in case FIR No.125 dated 30.11.2019, under Sections 452, 323, 427, 148, 149, 506 IPC (Section 307 IPC

added later on), registered at Police Station Commissionerate, Ludhiana.

Notice of motion.

On asking of the Court, Mr. V.G. Jauhar, Sr. DAG, Punjab, who is present in the Court, accepts notice on behalf of respondent-State. Mr. Ankur Ghai, Advocate, appears on behalf of the complainant.

Counsel for the petitioner has submitted that a false case has been registered against the petitioner due to bad-blood between the families. He submits that as per the FIR, a group of 20-25 unknown boys had entered into the shop of the complainant which allegedly included the petitioner and his brother. Rajnish Sharma, (whose face was muffled) petitioner in CRM-M-5200-2020 is said to have caused injuries on the complainant and Robin Sharma, petitioner in CRM-M-55728-2019 is said to have raised a Lalkara. Counsel further submits that both the brothers were not present at the spot and has relied upon photographs (Annexure P4) taken from CCTV footage to advance this argument.

State counsel appearing with counsel for the complainant has opposed the prayer and they have pointed out that Rajnish Sharma was a friend of the sister of the complainant. He clicked her pictures, circulated them on social media groups and started blackmailing her. He further submits that four FIRs including the present one, have been registered, details which are as under:-

(1) FIR No.44 dated 07.06.2019, under Sections 354-D, 506, 341, 509 IPC and Section 43/66-D/67 of I.T. Act

(2) FIR No.125 dated 30.11.2019, under Sections 452, 323, 427, 148, 149, 506 IPC (Section 307 IPC added later on).

(3) FIR No.135 dated 26.12.2019 under Sections 354-D, 503, 509, 384, 511 IPC and Sections 66-D/67-A/67 of I.T. Act.

(4) FIR No.137 dated 30.12.2019, under Sections 354-

D,503, 509, 384, 511 IPC and Sections 66-D/67-A/67 of I.T. Act.

During the course of hearing, the counsel for the petitioner has filed an affidavit of Sh. Raj Kumar Sharma, father of the petitioner and another affidavit of Sh. Rohit Sharma, elder brother of the petitioner, which are taken on record.

I have considered the rival contentions of both the parties. To my mind, the affidavits filed by the father and elder brother of the petitioner alone will not be sufficient though the attempt of both the deponents seems to be sincere. The petitioner too, must give an undertaking regarding his responsible conduct in future.

Considering the nature of allegations and the background, I deem it appropriate to direct, that besides deposing on the same lines as his father and elder brother, the petitioner will file an affidavit to the effect that:-

- (i) he will not go anywhere near the residence or the work place of the complainant or his family;*
- (ii) he will not in any way disrupt the day to day life of the complainant or his family; and*
- (iii) he will not circulate any material on social media or otherwise which is derogatory or defamatory to the complainant or his family. Affidavit be filed before this Court within a period of four days.*

List on 10.02.2020.

Meanwhile, the petitioner shall join the investigation and would be present as and when called for and in the event of arrest, the petitioner shall be admitted to interim bail till the next date of hearing on his furnishing personal and surety bonds to the satisfaction of Arresting Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438(2) Cr.P.C. ”

Learned counsel for the petitioner further contends that in

deference to the said order, the petitioner submitted himself before the police and joined the investigation. According to him, the petitioner cooperated with the police authorities during the investigation and furnished requisite bonds to the satisfaction of the Investigating Officer/Arresting Officer.

Learned State counsel has argued that the victim-Dheeraj Arora suffered two head injuries and both were caused by accused Robin Sharma. According to him, the nature of injuries was found to be simple. However, the blow was aimed on the head of the injured, therefore, the offence under Section 307 IPC was added. He, on instructions from SI Davinder Singh, states that the petitioner has joined the investigation.

Considering the above, the petition is allowed and the interim bail granted by this Court vide order dated 05.02.2020 is made absolute.

January 18, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No