

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207

CRM-M-13346-2021
Date of Decision: 13.10.2021

Chanchal

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present : Mr. Chirag Kundu, Advocate,
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

Mr. Shashi Kumar Yadav, Advocate,
for the complainant.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 of the Cr.P.C., upon FIR no.17, dated 14.02.2021, having been registered at Police Station Hassanpur, District Palwal, alleging therein the commission of offences punishable under Sections 148, 149 and 302 of the IPC, as also Section 25 of the Arms Act, 1959 (with Section 365 and 342 of the IPC added later).

On 27.08.2021, the following order had been passed by this court:-

“Case heard via video conferencing.

Vide this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 of the Cr.P.C., upon FIR no.17, dated 14.02.2021, having been registered at Police Station

Hassanpur, District Palwal, alleging therein the commission of offences punishable under Sections 148, 149 and 302 of the IPC, as also Section 25 of the Arms Act, 1959 (with Section 365 and 342 of the IPC added later).

As per the reply dated 28.04.2021 filed by the DSP, Hodal, the report under Section 173 of the Cr.P.C. had still to be submitted, but with learned counsel for the petitioner submitting that it has since been submitted, which learned State counsel also does not deny, on instructions.

He submits that as the petitioner has never been arrested or interrogated, he has not been arraigned as an accused as yet in the said report.

Mr. Kundu submits that the petitioner was never named in the FIR, with his name allegedly having been disclosed as one of the accused by another co-accused, with 7 of those persons who were named as accused in the FIR, having been exonerated by the police and consequently, with no other evidence against the petitioner other than a disclosure statement, he deserves to be admitted to bail.

Learned State counsel opposes the aforesaid contention on the ground that the complainant had stated that other than those whom he has recognised, there were 4 unknown persons and with the petitioner having been named as a co-accused by one of those who has been now arraigned as an accused in the *challan* submitted, it cannot be stated that he is not involved.

Mr. Yadav, learned counsel appearing for the complainant, in fact further submits that the deceased had made a complaint in Police Station Hassanpur, about a month before his murder, naming the petitioner as one of those whom he suspected would attack him/kill him.

The Superintendent of Police, Palwal, is directed to file a detailed status report as regards the investigation carried out so far.

The complaint referred to by learned counsel for the complainant be also annexed with the reply of the SP, with him stating as to what action was taken pursuant to that complaint.

Adjourned to 24.09.2021.”

Thereafter on 05.10.2021, the following order had been passed

by this court:-

“Case heard via video conferencing.

Pursuant to the previous order passed, a status report by way of an affidavit of the Superintendent of Police, Palwal, dated 22.09.2021, has been filed, which is ordered to be taken on record.

In view of what is stated in the affidavit of the SP, I would see absolutely no reason to continue with the petition; however, since learned counsel for the petitioner submits that he has not received a copy thereof and would like to go through the same, adjourned to 13.10.2021.”

Today, learned counsel for the petitioner submits that even as per the reply of the SP, Palwal, there was no complaint received from the deceased, to the effect that he was apprehending a danger to his life at the hands of the petitioner.

Learned counsel for the complainant on the other hand submits that the note which the deceased had written in the form of a complaint is with him (learned counsel); and simply because the police of Police Station Hassanpur did not act upon that note, the deceased was eventually murdered and he would present a copy of the note to the SP, Palwal, and even authenticate the contents thereof by comparison with the standard handwriting of the deceased.

Other than that, both he and learned counsel for the State submit that the petitioners' name having been specifically disclosed in a disclosure statement by his co-accused, and the deceased obviously having died an unnatural death, the petitioner does not deserve the concession of anticipatory bail at least.

Learned counsel for the petitioner however submits that the report under Section 173(2) of the Cr.P.C. already having been submitted with therefore no recovery required from the petitioner, there would be no reason to not admitted him to anticipatory bail.

Learned counsel for the State responds to the effect that simply because a report under Section 173(2) of the Cr.P.C has been submitted on a disclosure statement made against the petitioner, that would not mean that the petitioners' custodial interrogation is not required to even determine his *modus operandi* and motive etc., and as such, looking at the gravity of the offence, the concession of anticipatory bail at least should not be granted.

I agree with the learned State counsel and consequently, without making any comment on the actual merits of the case, this petition is dismissed.

(AMOL RATTAN SINGH)
JUDGE

13.10.2021
adhikari

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No