

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

101

CRM- M- 13547 of 2020(O&M)
Date of Decision: 19.02.2021

Kuldeep Singh @ Goru

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Saurav Bhatia, Advocate, for the petitioner.
Mr. Rana Harjasdeep Singh, DAG, Punjab
Mr. Brijender Kaushik, Advocate, for the complainant.

Amol Rattan Singh, J. (Oral)

Case heard by video conferencing.

By this petition, filed under the provisions of Section 438 of the Cr.P.C, the petitioner seeks the concession of 'anticipatory bail', upon FIR no.63, dated 15.02.2020, having been registered at Police Station City Kharar, District SAS Nagar, Mohali, alleging therein the commission of offences punishable under Sections 302, 34 of the IPC.

On 23.06.2020, the following order had been passed:-

"The case has been taken up by way of Video Conference as per instructions in view of COVID-19 pandemic.

In the paragraph No. 4 of affidavit dated 5.6.2020, filed by Shri Pall Singh, PPS, Deputy Superintendent of Police, Kharar, SAS Nagar, Mohali, it has been stated that petitioner has been named by complainant in the FIR and attribution of inflicting incised wounds has been established during investigation.

Learned counsel for petitioner disputes this averment. He states that all incised wounds are attributed to Sunny Dogar and petitioner is only attributed slaps, as per disclosure statement of co accused.

Learned State counsel to file fresh affidavit to substantiate the

averments regarding role of petitioner, as mentioned in paragraph No. 4 of aforesaid affidavit.

List on 7.7.2020.”

Thereafter, on 07.07.2020, 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.

By this petition, the petitioner seeks the concession of 'anticipatory bail', upon FIR no.63, dated 15.02.2020, having been registered against him and his co-accused, alleging therein the commission of an offence punishable under Section 302 read with Section 34 of the IPC.

Mr. Bhatia, learned counsel for the petitioner, submits that the entire case has gone on circumstantial evidence to the effect that the petitioner and one Sunny Dogar @ Sibbu threatened that they would kill the complainants' son, though at different points of time. Learned State counsel however submits that the petitioner has been specifically named by his co-accused and though in the 'summarised statement' it has been stated that he was attributed only slaps to the deceased, subsequently in the detailed disclosure statement it has come out that they inflicted 9 wounds on the person of the deceased and consequently the petitioner does not deserve the concession of anticipatory bail.

He further submits that the report under Section 173 of the Cr.P.C. has been submitted to the competent court qua the other co-accused but as the petitioner has not been arrested, a supplementary report qua him would be submitted.

Having considered the matter, at this stage, in view of the fact that

the petitioner is still to join investigation and the case is based on circumstantial evidence, without making any comments whatsoever on the actual merits of the case, the petitioner is directed to immediately join investigation, if he is sought to be arrested, he would be released on bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate, till the next date of hearing before this court.

He shall, further, abide by all the 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 Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation.

Adjourned to 29.07.2020.”

Eventually, the statement allegedly made by the co-accused, Sunny Dogar, has been produced before this court in a sealed cover in the form of *zimni* recordings by the police, dated 17.02.2020 and 23.02.2020, wherein undoubtedly there seems to be some contradiction as regards the role of the petitioner in the first alleged statement and the second alleged statement, but be that as it may, the petitioner is shown to be one of the two persons who inflicted injuries on the deceased. (Though the first statement was to the effect that the petitioners’ role was of banging the head of the deceased against the floor in a *Shamshan Ghat*, in the other statement he was stated to have inflicted a knife wound.

Either which way, it is not a case where the petitioner has been attributed only a slap by the co-accused, as contended by learned counsel for

the petitioner.

Whether or not such statements would be eventually admissible in evidence, is not being gone into by this court, in view of the fact that this is a petition seeking anticipatory bail for the petitioner.

In the aforesaid circumstances, without making any comment on the actual merits of the case, I do not think this a fit case where the petitioner can be granted the concession of anticipatory bail.

Consequently, the order granting him interim bail is vacated, with the present petition dismissed.

If the petitioner is arrested and files any petition under the provisions of Section 439 of the Cr.P.C., such petition would be decided wholly on its own merits.

19.02.2021
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking: Yes
Whether reportable: No