

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(203)

CRM No. M-23502 of 2021

Date of Decision : 15.11.2021

Manish Kumar Garg and another

....Petitioners

Versus

State of Haryana

.....Respondent

(Through Video Conferencing)

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Narinder Kumar, Advocate for
Mr. Baljeet Beniwal, Advocate for the petitioners.

Mr. Gaurav Bansal, Assistant Advocate General, Haryana.

Harsimran Singh Sethi, J. (Oral)

The petitioners are seeking anticipatory bail in FIR No. 394 dated 05.06.2021 under Sections 307, 323, 34 and 506 IPC, registered at Police Station Camp Palwal, District Palwal.

Learned counsel for the petitioners contends that petitioner No. 1 has joined investigation in terms of order passed by this Court dated 18.06.2021 but he does not have any instructions qua petitioner No. 2. Order dated 18.06.2021 is as under:-

“The present petition has been filed under Section 438 Cr.P.C. for the grant of anticipatory bail to the petitioner in respect of FIR No.394 dated 05.06.2021 under Sections 307, 323, 34 and 506 IPC, registered at Police Station Camp Palwal, District Palwal.

Learned counsel for the petitioners argues that the only allegation against the petitioners is that they were throwing the stones at the house where the complainant lives along with her

children but, concededly there is no injury which has been caused to the complainant or anyone else. Learned counsel for the petitioners submits that the present allegations, which have been alleged against the petitioners, are false and reason for the same is that there is a matrimonial dispute between the petitioners and the complainant and the involvement of the petitioners by the complainant in the present case is only to harass the petitioners by levelling false allegations. Learned counsel for the petitioners further submits that Section 307 IPC has wrongly been added in the FIR, especially, when there is no injury caused to anybody as only allegations is of pelting stones at the house where the complainant is living along with her children is alleged.

Notice of motion for 01.10.2021.

Mr. Sharad Aggarwal, AAG, Haryana, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition accepts notice on behalf of respondent-State.

Learned State counsel argues that intention to kill attracts the Section 307 IPC irrespective of any injury caused. Learned State counsel further submits that as the allegations are of pelting stones at the house, the intention can be very well judged that the same was to kill the complainant.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Once, it is conceded that there is a matrimonial dispute between the complainant and the petitioners and the litigation is already pending between the parties due to the said matrimonial dispute and also keeping in view the fact that there is no injury caused to anyone in the present case and the intention to kill, as being attributed to the petitioners, is yet to be proved in the Court of Law, the petitioner has made out a case for the grant of anticipatory bail, especially, when learned counsel for the petitioner undertakes that the petitioner will join and cooperate in the investigation.

The petitioners are directed to join the investigation. In the event of their arrest, they shall be released on interim bail to the satisfaction of the Arresting Officer/Investigating Officer on their furnishing bail bonds/surety bonds to his/her satisfaction subject to the following conditions:-

i) That they shall make themselves available for interrogation by the police officer as and when required.

(ii) That they shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the said facts to the Court or to any police officer.

(iii) That they shall not leave India without prior permission of the Court.

(iv) That they shall abide by all the conditions as enshrined under Section 438 (2) Cr.P.C.”

Learned State counsel, who has also joined the proceedings through video conference, on instructions from SI Mahender Singh states that in terms of the order of this Court reproduced before, petitioner No. 1 has joined the investigation and no further interrogation of petitioner No. 1 is required at this stage. Learned State counsel submits that petitioner No. 2 has not joined the investigation.

In view of the above, the order dated 18.06.2021 granting interim bail is made absolute qua petitioner No. 1 only.

However, petitioner No. 1 shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join investigation as and when called upon to do so.

In case at any given point of time hereinafter, it is felt by the Investigating Agency that petitioner No. 1 is required for the investigation but is not co-operating, it will be at liberty to approach this Court for passing appropriate orders.

Learned counsel for the petitioners submits that keeping in view the fact that despite various opportunities, petitioner No. 2 has not joined the investigation, he does not press the petition for the grant of anticipatory bail qua petitioner No. 2 and the same may kindly be disposed as such.

In view of the above, petition qua petitioner No. 2 is disposed of having been not pressed. Interim bail granted to him vide order dated 18.06.2021 stands cancelled.

November 15, 2021
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? Yes
Whether reportable? No