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CRM-M-24200-2021

Harjit Singh vs. State of Punjab

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CRM-M-24084-2021

Nachhattar Singh vs. State of Punjab

Present: Mr. Mohd. Yousaf, Advocate
for the petitioner in CRM-M-24200-2021

Mr. Ramdeep Partap Singh, DAG, Punjab, in
CRM-M-24200-2021

Mr. H.S.Multani, DAG, Punjab, in CRM-M-24084-2021

Mr. Digvijay Singh Nagpal, Advocate,
for the complainant.

Case heard via video conference.

CRM-M-24200-2021

On 28.06.2021, the following order had been recorded:-

“Case heard via video conferencing.

By this petition, the petitioner seeks the concession of anticipatory bail, upon FIR no.30, dated 25.3.2021, having been registered at Police Station Moonak, District Sangrur, alleging therein the commission of offences punishable under Sections 324/323/506/148/149 of the IPC (with Sections 326 and 307 of the IPC having been added later on).

Learned counsel for the petitioner submits that even a perusal of the video recording of the occurrence (as encaptured in the video compact disc, copy Annexure P-5), the petitioner was not present at the spot and in fact got the injured admitted to hospital after which he was named as one of the accused in the FIR, showing that he had given a sickle blow on the right hand of Nirmal Singh.

Notice of motion.

Mr.Saurav Khurana, learned DAG, Punjab, accepts notice at the asking of the court and upon query to him, he submits that he would have to take instructions in that regard.

Without making any comment on the actual merits of the case, the petitioner is directed to join investigation within

one week and upon him so joining if he is sought to be arrested, he shall be released on bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate.

He shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C.

If the investigating officer does not actually 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, in terms of the order of this court.

A gazetted officer is directed to file an affidavit after going into the aspect of the alleged video recording and the role of the petitioner, if any, in the occurrence.

Adjourned to 19.7.2021.”

Pursuant thereto learned State counsel submits, on instructions, that the petitioner having joined investigation and the report under Section 173 Cr.P.C. having been submitted to the trial court, his custodial interrogation is not required.

Mr. Nagpal, learned counsel for the complainant, however, opposes the petition even today to submit that the petitioner having been attributed a grievous injury to the hand of one Nirmal Singh, he does not deserve to be admitted to bail.

Without making any comment on the actual merits of the case, it needs to be noticed here that in terms of the ratio of the judgment of the Supreme Court in M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649, once an investigating agency itself says that it does not require the custodial interrogation of an accused, normally this court would not direct his arrest (even upon a petition seeking anticipatory bail being dismissed).

Consequently, in the aforesaid circumstances, this petition has

actually been rendered infructuous and is disposed of as such.

However, if the petitioners' custodial interrogation is required at any stage hereinafter, in the context of the FIR in question, he would be given 10 days notice before arrest, duly shown to be served upon him.

Naturally, if the complainant is aggrieved in any manner, of lack of proper investigation, he would be always at liberty to avail of his remedy as per law.

CRM-M-24084-2021

An affidavit of a gazetted officer be filed with regard to what was observed in the video recording, looking at the contentions raised by learned counsel for the petitioner on July 16, 2021.

Adjourned to 25.08.2021.

A photocopy of this order be placed on the file of the other connected case.

19.07.2021
dharamvir

(AMOL RATTAN SINGH)
JUDGE