

209 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24199-2021 (O&M)

Date of Decision : 09.08.2021

JAKIR ...Petitioner

Versus

STATE OF HARYANARespondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Sarfraj Hussain, Advocate for the petitioner.
Mr. Pawan Kumar Longia, DAG, Haryana.
Mr. Saleem Ahmed, Advocate for the petitioner.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

2. Prayer in the petition under Section 438 Cr.P.C. is for grant of pre-arrest bail to the petitioner in case FIR No.50 dated 11.02.2021, registered under Sections 323,324,326,34 and 506 of IPC, 1860, at Police Station Sadar Nuh, District Nuh.

3. On 28.07.2021, the following order was passed:-

“Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic. Prayer in the petition under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.50 dated 11.02.2021, registered under Sections 323, 324, 326, 34 and 506 IPC at Police Station Sadar Nuh, District Nuh. Learned counsel contends that the incident took place on account of the complainant and his son breaking the wall of the compound of the house of the petitioner, scuffle took place to protect damage to their property, injuries attributed to the petitioner are simple in nature while injury No.1 on the complainant although grievous in nature is

attributed to co-accused Yunus, besides the petitioner has filed a criminal complaint under Sections 148/149/323/325/427/452 and 506 IPC at Police Post Jai Singh Pur, Police Station Nuh against the complainant and other accused. Learned counsel further contends that the petitioner is ready and willing to join investigation and fully co-operate in the same. Notice of motion. Mr. Sandeep Singh Mann, Addl. A.G., Punjab accepts notice on behalf of the State and on instructions from HC Kanwal confirms that the incident took place on account of demolition of wall of the petitioner's house by the complainant and other co-accused and that the injury attributed to the petitioner is simple in nature while the grievous injury received by the complainant is attributed to co-accused Yunus. He, however, requests for time to file reply. At this stage Mr. Saleem Ahmed, Advocate puts in appearance on behalf of the complainant and states that petitioner has not disclosed that he is involved in another criminal case i.e. FIR No.462 dated 11.07.2014 registered under Sections 147, 148, 323, 447, 506 and 149 IPC at Police Station Nuh. In response thereto, learned counsel for the petitioner states that the petitioner was acquitted along with 22 persons in case FIR No.462 dated 11.07.2014 vide judgment dated 02.12.2017 passed by the learned JMIC, Mewat, therefore, exemplary costs be imposed on the complainant for making unwarranted assertions. Acquittal of the petitioner in the aforementioned FIR is confirmed by learned State Counsel. Adjourned to 09.08.2021 for filing reply if any. In the meantime, the petitioner is directed to join investigation and fully cooperate with the police. However, in the event of arrest, the petitioner be released on ad-interim pre-arrest bail, subject to his furnishing bail/surety bonds to the satisfaction of the Arresting / Investigating Officer. The petitioner shall abide by the conditions envisaged under Section 438(2) Cr.P.C., failing which, the interim protection granted to the petitioner, shall stand vacated."

4. Today, learned counsel for the petitioner contends while learned State counsel, on instructions from ASI Sudesh Kumar, confirms that pursuant to the order of this Court dated 28.07.2021, the petitioner joined investigation, cooperated in the same, was released on ad-interim pre-arrest bail and his custodial interrogation is not required.

5. In view of the statement of the learned State Counsel, order dated 28.07.2021, passed by this Court, is made absolute. The petitioner shall abide by the terms and conditions enumerated in Section 438(2) Cr.P.C. However, nothing stated hereinabove shall be deemed to be an expression of opinion on the merits of the case.
6. Petition stands disposed of in the aforementioned terms.

09.08.2021
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(B.S. Walia)
Judge

Whether speaking/ reasoned : Yes/No

Whether reportable : Yes/No