

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

201

**CRM-M-24954 of 2021
Date of Decision:22.07.2021**

Birpal

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Pratham Sethi, Advocate,
for the petitioner

Mr. Munish Sharma, AAG, Haryana

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

On 02.07.2021 the following order had been passed in this case:-

“Case heard by way of 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.0118, dated 01.03.2021, having been registered at Police Station Shivaji Colony, District Rohtak, alleging therein the commission of offences punishable under Sections 148, 149, 307, 323, 341, 379B, 427, 506 of the IPC, and Section 25 of the Arms Act, with Sections 120-B, 212, 325 of the IPC added subsequently in the FIR.

Learned counsel for the petitioner submits that the petitioner was not named in the FIR and that even the complainant in his

statement recorded under Section 161 of the Cr.P.C. thereafter, on 02.03.2021(copy Annexure P-4), does not state that even as per the CCTV footage the petitioner was one of the persons who was present at the spot and who had attacked him.

He submits that in fact it was only on a disclosure statement allegedly made in police custody by a co-accused, Mukul, that the petitioner has been named as one of the conspirators of the crime perpetrated.

Notice of motion, with Mr. Munish Sharma, learned AAG, Haryana, accepting notice on the asking of the court.

On query, he submits that his instructions are actually to the same effect as has been submitted by the counsel for the petitioner, but as to whether the petitioner was at any stage actually identified by the complainant, he would have to take instructions.

The Superintendent of Police, Rohtak, is directed to have an affidavit of a gazetted officer filed, stating therein whether the petitioner is identified by the complainant or not (after the petitioner appears before the investigating officer), and whether any identification parade is conducted before the next date of hearing.

Adjourned to 22.07.2021.

In the meanwhile, the petitioner is directed to join investigation within five days and upon his doing so, in case he is sought to be arrested, he would be admitted to interim bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Illaq Magistrate. He shall abide by 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 Illaq Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation.”

Though no affidavit of a gazetted officer has been filed, learned State counsel submits (on instructions from SI Brijender Singh) that an appropriate application for identification of the petitioner has been filed before the competent Magistrate; as regards his custodial interrogation, he having joined investigation, his custody is not required presently.

That being so, this petition has 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.

July 22, 2021
dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No