

CRM-M-28411-2021 (O&M)

Through video conference

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

**CRM-M-28411-2021 (O&M).
Decided on: August 13, 2021.**

Himanshu

.. Petitioner

VERSUS

State of Haryana

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Paramjit Singh Sullar, Advocate,
for the petitioner.**

Mr.Naveen Singh Panwar, DAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 438 of the Code of Criminal Procedure, for grant of anticipatory bail in FIR No.235 dated 5.6.2020, registered under Sections 148, 149, 302, 307 and 323 IPC (Section 25 of the Arms Act and Sections 120-B and 201 IPC added later on), at Police Station Purani Sabzi Mandi, Rohtak, District Rohtak.

As per the FIR (Annexure P-1) lodged on the basis of statement of Robin son of Jaipal Saini, his uncle's son (Tau) Ramandeep @

CRM-M-28411-2021 (O&M)

Subham son of Rajpal Saini and one Vishal @ Som son of Mahender, who lives in his neighbourhood is habitual of taking liquor and addicted to other intoxicants and is an aggressive boy. He stated that regarding his abusive language, he and his family members told to the parents of Som at his house that they should make their son understand that it is not good thing to abuse in the street and the family members assured that Som will not use filthy language. He further stated that due to this grudge, on 4.6.2020 at 10:30 PM (night) Som came to the house of Rajpal along with his brother Sumit, his family members and friends and after abusing Rajpal and his family members, they went back and after that his uncle's son Ramandeep @ Subham son of Rajpal Saini had gone to Gohana Bus Stand for his own work and there Som and his brother Sumit and 4-5 other boys attacked upon Ramandeep with knives (*churi*) and on receiving this information from his friend Bhagwan Dass @ Guddu, the complainant also went on the spot and saw that his uncle's son Ramandeep has received many injuries with some sharp edged weapons i.e. Knife/*churi* near his left ear. He stated that when they tried to save him then Som @ Vishal with the intention to kill him, attacked upon him on the left side of his chest with knife due to which he fell on the road and Som, his brother Sumit and 4-5 other boys ran away from the spot along with their respective weapons. Thereafter, Ramandeep and the complainant were admitted to Civil Hospital, Rohtak, for treatment where Ramandeep @ Subham was declared dead.

Learned counsel for the petitioner has submitted that the name of the petitioner was not mentioned in the FIR and he has been

CRM-M-28411-2021 (O&M)

nominated on the basis of disclosure statement of co-accused. He has further submitted that the petitioner was not involved in the alleged offence and therefore, he may be considered for the grant of anticipatory bail.

On the other hand, Mr.Naveen Singh Panwar, learned Deputy Advocate General, Haryana, while referring to the reply filed by way of affidavit of the Deputy Superintendent of Police, Rohtak, has submitted that on 6.6.2020, co-accused Vishal @ Som, Sumit and Kamal were arrested and Scooty bearing registration No.HR-12-AE-6484, which was used in the commission of crime and blood stained clothes worn by accused Kamal were recovered from his house. He has submitted that there were total 9 accused in the present case out of which 7 accused have already been arrested but the arrest of other two accused namely Ajay and Himanshu is still pending and proclamation has also been issued against them vide order dated 31.3.2021 as per law. He submitted that final investigation report under Section 173 Cr.P.C. was submitted by the police on 31.8.2020. The learned State counsel has further submitted that the petitioner actively participated in the commission of crime along with co-accused and caught hold of the deceased at the time of incident. The active role of the petitioner in the commission of the crime is also corroborated by the statements recorded under Section 161 Cr.P.C. of the brother, mother and uncle of the deceased and disclosure statement of co-accused Kamal son of Ramesh. He has further submitted that the motorcycle used in the commission of crime has to be recovered from the possession of the petitioner. He has submitted that the scooty bearing registration No.HR-12-

CRM-M-28411-2021 (O&M)

AE-6484 which was recovered from co-accused Kamal son of Ramesh, is registered in the name of Raj Kapoor son of Dharam Chand who is the father of the petitioner. The learned State counsel while referring to affidavit filed by the State has further submitted that if the petitioner is released on bail then security of the key witnesses will be under threat and therefore, he has vehemently opposed the grant of anticipatory bail to the petitioner. He has submitted that the petitioner is absconding since long time and even proclamation proceedings have been initiated against him and therefore, he does not deserve the concession of anticipatory bail.

I have heard the learned counsel for the parties.

In the present case although the name of the petitioner has been nominated on the basis of disclosure statement made by co-accused but as per the prosecution, during the course of investigation, various link evidences were found against the petitioner. The mere fact that petitioner's name has been nominated on the basis of a disclosure statement, cannot vest a right in the petitioner for the grant of anticipatory bail if sufficient material is available with the prosecution to link the petitioner with the offence and the same are also relevant factors for consideration of grant of anticipatory bail. Furthermore, strong apprehension has been expressed by the learned State counsel based upon the affidavit filed by the state that in case the petitioner is granted the concession of anticipatory bail, then there is every possibility that he may cause security threat to all the key witnesses.

Therefore, keeping in view the totality of the

CRM-M-28411-2021 (O&M)

circumstances of the present case, I do not deem it fit and proper to extend the benefit of anticipatory bail to the petitioner. Consequently, the present petition is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

August 13, 2021.	(JASGURPREET SINGH PURI)
raj arora	JUDGE
Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No