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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(Through video-conferencing)

CRM-M No.28320 of 2021
Date of Decision: 16.09.2021

LABH SINGH

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. H.S. Gill, Advocate for
Mr. Suresh Singla, Advocate
for the petitioner.

Mr. Bhupender Beniwal, Asstt. A.G., Punjab.

Mr. P.K.S. Phoolka, Advocate
for the complainant.

RAJ MOHAN SINGH, J. (Oral)

Petitioner seeks grant of anticipatory bail under Section 438 Cr.P.C. in case bearing FIR No.188 dated 17.09.2020 registered under Sections 459, 458, 323, 148, 149 IPC (Section 459 IPC added vide DDR No.029 dated 15.12.2020) at P.S. Sangat, District Bathinda.

On 22.07.2021, following order was passed by the Co-ordinate Bench of this Court:-

"The case has been taken up for hearing through video conferencing.

The petitioner has filed this petition under Section

438 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for grant of anticipatory bail in case FIR No.188 dated 17.09.2020 registered under Sections 459, 458, 323 and 148 read with Section 149 of the Indian Penal Code, 1860 at Police Station Sangat, District Bathinda.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. As per the allegations made in the FIR, the petitioner was armed with danda and allegedly inflicted blow with danda on the head of Harbans Singh father of the complainant. Injury caused to Harbans Singh was declared to be simple. The petitioner is not involved in any other similar case. The petitioner is ready to join the investigation.

Notice of motion.

Pursuant to supply of advance copy, Mr. P.S. Walia, Asstt. AG, Punjab has appeared and accepted notice on behalf of the respondent-State.

Learned State Counsel seeks time to file reply.

Adjourned to 16.09.2021.

In the meanwhile, the petitioner is directed to join the investigation as and when called upon to do so. In the event of his arrest, the petitioner shall be released on interim anticipatory bail by the arresting officer/investigating officer on furnishing of bail bonds by him to the satisfaction of the arresting officer/investigating officer. The petitioner shall comply with the conditions enumerated under Section 438(2) of the Cr.P.C. failing which he shall not be entitled to the protection of interim anticipatory bail allowed to him.

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(ARUN KUMAR TYAGI)
JUDGE"

Learned counsel for the petitioner submits that in the

very nature of the prosecution story offence under Section 459 IPC is not attracted as there is no grievous hurt caused on the person of Harbans Singh, rather a simple injury is alleged to have been inflicted. The offence under Section 458 IPC would remain debatable as the same relates to lurking house-trespass or house-breaking by night after preparation made for hurt.

Learned counsel further submits that in compliance of the order dated 22.07.2021, the petitioner has joined the investigation to the entire satisfaction of the Investigating Officer. Petitioner is not involved in any other case.

Learned State counsel on instructions from ASI Dharamvir Singh admits the aforesaid fact and submits that the presence of the petitioner is no more required for further investigation of the case.

Learned counsel for the complainant however opposed the bail on the ground that the simple injuries have been given while committing lurking house-trespass by the petitioner and the offences are non-bailable in nature.

Having heard learned counsel for the parties, I am of the view that the allegations and defence would be tested by the trial Court with reference to the quality of evidence to be led by the parties.

At this stage, without making any observation on merits

of the case, it can be seen that since the petitioner has joined the investigation and his presence is no more required for further investigation of the case, therefore the interim order dated 22.07.2021 is made absolute. However, the petitioner shall keep on joining the investigation as and when required to do so and he shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

Petition stands disposed of.

September 16, 2021
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(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No