

CRM-M-30886-2021

Date of Decision: 26.11.2021

Ankit

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Tanvir Singh Grewal, Advocate,
for the petitioner.

Mr. Neeraj Poswal, A.A.G., Haryana.

Mr. Deepak Batra, Advocate,
for the complainant.

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

On 17.08.2021, the following order had been passed by this
court:-

“Case heard via video conferencing.

By this petition, the petitioner seeks the concession of 'pre-arrest bail' upon FIR no. 234 having been registered at Police Station Ladwa, District Kurukshetra, on 04.07.2021, alleging therein the commission of offences punishable under the provisions of Sections 323/324/452/307/506/120-B of the IPC.

Pursuant to the last order passed, an affidavit of the Deputy Superintendent of Police, Kurukshetra, had been filed, dated 12.08.2021, which is ordered to be taken on record.

Though in the said affidavit it is clearly stated that the petitioner was present with his

co-accused and had attacked the head and mouth of the complainant with sharp edged weapons with the intention to kill him, however, Mr. Grewal, learned counsel for the petitioner, submits that the video is actually not of the actual occurrence in question and is a concocted one very obviously; because firstly, it does not even show the faces of the alleged attackers; second, there are shown to be five blows inflicted with non-sharp edged weapons, whereas even the MLR shows only three injuries with blunt edged weapons; and last, if the occurrence in the video is to be correlated with the occurrence in question, then there was no way that the person who was being attacked would get away with three simple injuries.

That being so, learned State counsel as also learned counsel for the complainant, would go through the video and address arguments on the next date of hearing.

Adjourned to 29.09.2021.

In the meanwhile, the petitioner, in the aforesaid circumstances, without making any comment on the actual merits of the case, is directed join investigation and upon him so joining, in case he is sought to be arrested, he would 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 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 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.”

Thereafter, on 11.11.2021, the following order had been passed by this court:-

“Case heard by way of video conferencing.

Pursuant to the order earlier passed, learned State counsel submits that though he himself has not seen the video of the CCTV footage in question, however he points to paragraph 4 of the affidavit of the DSP, Ladwa, dated 12.08.2021, wherein the DSP has stated very clearly that the CCTV footage clearly shows the present petitioner along with other persons attacking the head and mouth of the complainant with sharpened edged weapons, with an intention to kill him.

Learned counsel for the petitioner however reiterates that if the petitioner is even visible in the video, the petition may be dismissed.

Though learned State counsel submits that eventually it is the satisfaction of the investigating agency that would prevail and consequently, whether or not any particular State counsel watches the video would be immaterial, yet, what is to be observed in that context by this court is that this is a petition by which the petitioner seeks to be admitted to anticipatory bail; and hence if no prima facie case is apparently made out, in terms of the contention of learned counsel for the petitioner, this court would need to consider as to whether he should be admitted to bail or not, regardless of the evidence eventually led before the trial court. If on the other hand at least a prima facie case is found to be made out, obviously the petition would stand dismissed immediately.

Hence, adjourned to 23.11.2021.

Learned State counsel would assist this court for that limited purpose, on the next date of hearing.

Interim order to continue till that date only and specifically.”

On 23.11.2021, learned State counsel had been directed to call the investigating officer to court to determine which of the three persons who are seen in the CCTV footage is the petitioner, with him today submitting that the investigating officer, i.e. Sub-Inspector Balraj, is present with him and has stated that the petitioner is the person whose face is partially covered in the video and who was seen to be inflicting blows with a weapon (stated to be a sword by the investigating officer), on the complainant, and therefore he does not deserve to be admitted to bail.

Learned counsel for the petitioner, other than reiterating what he had already submitted earlier, further submits that with the FIR having described each blow in detail, which would be impossible for a sleeping person to describe, the entire contents of the FIR are not believable.

Having considered that argument, which otherwise may not be illogical, however, once the investigating officer is specifically identifying one of the persons in the CCTV footage to be the petitioner, attacking a sleeping man (stated to be the complainant) with a weapon (whether a sword or any other weapon, with no comment made thereon by this court), I would not see any reason whatsoever for this petition to continue any further, which is consequently dismissed, with the interim order dated 17.08.2021 vacated.

However, it is made clear that no observation made by this court either in this order or any previous order, would be taken into consideration to determine the actual guilt or innocence of the petitioner, all such observations having been made only in the context of a petition filed under the provisions of Section 438 of the Cr.P.C.; and naturally, his guilt/innocence would be determined on the basis of evidence gathered/led.

November 26, 2021
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No.