

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(241)

CRM No. M-36864 of 2021
Date of Decision : 17.11.2021

Baljinder Singh

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Manu Loona, Advocate for the petitioner.

Mr. Sandeep Singh Deol, Deputy Advocate General, Punjab.

Harsimran Singh Sethi, J. (Oral)

The petitioner is seeking anticipatory bail in FIR No. 148 dated 26.09.2018 registered under Sections 324, 323, 148, 149 IPC and Section 326 IPC added later on at Police Station Sadar Fazilka, District Fazilka.

Learned counsel for the petitioner contends that the petitioner has joined investigation in terms of order passed by this Court dated 07.09.2021. Order dated 07.09.2021 is as under:-

“Present Petition has been filed under Section 438 Cr.P.C. for the grant of anticipatory bail in FIR No.148 dated 26.09.2018 registered under Sections 324, 323, 148, 149 IPC and Section 326 IPC added later on at Police Station Sadar Fazilka, District Fazilka.

Learned counsel for the petitioner argues that Section 326 IPC has been added after a period of more than 2-1/2 years vide DDR No.25 dated 23.04.2021. Learned counsel submits that the petitioner had already joined the investigation and is ready to cooperate. He further submits that nothing is to be recovered from the petitioner. Learned counsel submits that

no custodial interrogation of the petitioner is necessary for the reason that only the injury, which was already there initially, has been brought under Section 326 IPC after a period of more than two years by terming the same injury as grievous.

Notice of motion.

Mr. Sandeep Singh Deol, Deputy Advocate General, Haryana, Punjab, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State.

Learned counsel for the State does not dispute that Section 326 IPC has been added after a period of 2-1/2 years of registration of the FIR and nothing has come on record to show that the petitioner was not cooperating.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Despite the injury, which has now been termed as grievous after a period of 2-1/2 years after registration of the FIR, the petitioner had already been granted the benefit of anticipatory bail as all the provisions of IPC involved were bailable. The petitioner had joined and is cooperating in the investigation hence there is no justifiable reason to send the petitioner behind the bars for custodial interrogation as concededly the petitioner is cooperating in the investigation.

In the event of his arrest, he shall be released on interim bail to the satisfaction of the Arresting Officer/Investigating Officer on his furnishing bail bonds/surety bonds to his/her satisfaction subject to the following conditions:

- i) That he shall make himself available for interrogation by the police officer as and when required.*
- ii) That he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the said facts to the Court or to any police officer.*

iii) That he shall not leave India without prior permission of the Court.

iv) That he shall abide by all the conditions as enshrined under Section 438(2) Cr.P.C.

Adjourned to 17.11.2021

It is, however, made clear that after the petitioner join the investigation, in case any incriminating material comes against the petitioner, the respondent-State will be at liberty to file appropriate application seeking the custody of the petitioner in case, the same is needed.”

Learned State counsel, who is present in Court, on instructions from ASI Hoshiar Singh states that in terms of the order of this Court reproduced before, the petitioner has joined the investigation and no further interrogation of the petitioner is required at this stage.

In view of the above, the order dated 07.09.2021 granting interim bail to the petitioner is made absolute.

However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join investigation as and when called upon to do so.

In case at any given point of time hereinafter, it is felt by the Investigating Agency that petitioner is required for the investigation but is not co-operating, it will be at liberty to approach this Court for passing appropriate orders.

The petition stands disposed of.

November 17, 2021
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? Yes
Whether reportable? No