

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(205)

CRM No. M-37195 of 2021
Date of Decision : 26.11.2021

Dharambir

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Saurabh Dalal, Advocate for the petitioner.

Mr. Karan Garg, Assistant Advocate General, Haryana.

Mr. Deepak Girotra, Advocate with
Mr. Rishab Sardana, Advocate for the complainant.

Harsimran Singh Sethi, J. (Oral)

The petitioner is seeking anticipatory bail in FIR No. 171, dated 03.05.2021, registered under Sections 148, 149, 323, 341, 506, 307, 379-B IPC at Police Station Sadar, District Rohtak.

Learned counsel for the petitioner contends that the petitioner has joined investigation in terms of order passed by this Court dated 09.09.2021. Order dated 09.09.2021 is as under:-

“CRM-28803-2021

Application is allowed, as prayed for.

CRM-M-37195-2021

Present petition has been filed under Section 438 Cr.P.C for the grant of anticipatory bail in respect of FIR No. 171, dated 03.05.2021, registered under Sections 148, 149, 323, 341, 506, 307, 379-B IPC at Police Station Sadar, District

Rohtak.

Learned counsel for the petitioner argues that at the time when the FIR was registered, Section 307 IPC as well as Section 379-B IPC were not part of the FIR and these Sections were only added on the statement under section 161 of Cr.P.C. was got recorded by one of the injureds, namely, Sonia. Learned counsel for the petitioner further argues that after the registration of FIR, as the Sections invoked in the FIR were bailable, the petitioner was granted the benefit of bail and now, after the inclusion of Sections 307 and 379-B IPC, the petitioner is sought to be arrested. Learned counsel for the petitioner further argues that Section 307 IPC was added without there being any medical opinion and now even as per the medical opinion, Section 307 IPC is not made out.

Notice of motion.

Mr. Gaurav Bansal, learned Assistant Advocate General, Haryana, 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 respondent-State submits that injured Sonia in her statement recorded under Section 161 Cr.P.C. mentioned the allegation with regard to the snatching of chain due to which, the relevant Sections 307 and 379-B IPC were added to the FIR.

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

Allegations alleged in the FIR are yet to be proved. For the prayer of anticipatory bail, this Court is to analyse whether, the purpose of investigation can be achieved by directing the petitioner for joining and cooperating the investigation or whether custodial interrogation is necessary.

Keeping in view the facts and circumstances of this case, the purpose of investigation will be achieved in case, petitioner is directed to join the investigation, especially, in view of the

fact that the other co-accused, namely, Shri Bhagwan from whom, it is alleged that the gold chain has been recovered as well as other co-accused, namely, Kavinder and Ravinder have already been granted the benefit of bail.

Petitioner is directed to join the investigation forthwith.

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 24.11.2021.

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 on instructions from SI Jaswant 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 09.09.2021 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 26, 2021
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? Yes
Whether reportable? No