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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.38232 of 2021 (O&M)
Decided on: 22.11.2021

Sanjay Kundu

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Dr. Anmol Rattan Sidhu, Sr. Advocate
with Mr. Pratham Sethi, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of anticipatory bail in FIR No. 0154 dated 04.06.2021, registered under Sections 201, 302, 34 of the IPC and Sections 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Amendment 2015) (added later on) at Police Station Sahlwas, District Jhajjar.

The operative part of the order dated 20.09.2021, vide which interim anticipatory bail has been granted to the petitioner, is reproduced as under:-

“....Learned senior counsel, appearing on behalf of the petitioner, submits that the FIR was registered at the instance of complainant Sanjay with the allegations that on 03.06.2021, one Kale came to him and asked his brother Anil to bring fish from the village pond. Thereafter, on 04.06.2021, at around 1-2 O'clock in the morning, his brother Anil, one relative Pawan and said Kale went to village pond on motorcycle. At about, 4-5 AM, Pawan rushed to complainant's house and told him

that Anil has been caught hold by several people at village pond and they are beating him mercilessly with sticks and he (Pawan) and Kale, by pushing those people, ran away from that place. After some time, the complainant received a phone call from one Jaipal, who told that Anil has suffered many injuries and is lying near the small pond in an unconscious condition. Thereafter, he arranged a vehicle and took Anil to Govt. Hospital, Jhajjar for treatment, where he was declared 'brought dead'.

Learned senior counsel argues that the petitioner is a practising lawyer and he is a member of the District Bar Association, Rohtak. It is further argued that in fact after the registration of the FIR, four persons, namely Sushil Kumar, Arun, Mohit @ Kalia and Surender, stand arrested and as per the disclosure statement of co-accused Surender @ Chottu, it is stated that he and Mohit @ Kalia are close friends and on 04.06.2021, when both of them were sitting at a liquor vend, Mohit received a call from Ajay, who is a contractor of fish farming, who told him that two thieves have entered into the village pond and asked them to go to the spot. On this, Surender @ Chottu and Mohit reached at the spot, where the watchmen of the pond, namely Arun and Sushil, met them. All of them saw that two persons were inside the pond and when they called them, one of them fled away from other side and one boy came outside to them. They all caught hold of him, who told his name as 'Anil'. Thereafter, Surender @ Chottu and Watchman Arun took out a stick and gave beating to Anil and Watchman Sushil had given fist and slap blows to Anil. When Surender @ Chottu and Mohit were asking Anil to sit in the middle of the scooter, in the meantime, Ajay Kundu and petitioner Sanjay Kundu came there in a Creta car and said that on earlier occasion also, they have stolen the fish. Thereafter, Ajay Kundu and Arun gave beatings to Anil with stick/Danda and then, Surender @ Chottu, Sanjay Kundu, Ajay and Arun made Anil to sit in the car and took him to a park near the liquor vend, where also, Ajay and Arun gave him beating with stick and he became unconscious.

Learned senior counsel further submits that at the first instance, even from the disclosure of Surender @ Chottu, it is not made out that petitioner Sanjay Kundu is a contractor with Ajay Kundu, though both of them are first cousins. Learned senior counsel further submits that the said disclosure statement further shows that the petitioner is not attributed any injury to deceased Anil.

Learned senior counsel has referred to supplementary statement of complainant Sanjay, recorded on 16.06.2021, wherein he has stated that the contractors of the fish farming have committed the murder of his brother Anil, however, the petitioner was not named.

In reply, learned State counsel has not disputed that the aforesaid four persons have already been arrested and in the disclosure of Surrender @ Chottu, the name of the petitioner has surfaced.

Learned State counsel has referred to the statement of one Joginder, recorded on 02.08.2021 under Section 161 Cr.P.C., wherein he has stated that in fact he has taken the village pond on lease in an open auction for a period of eight years for Rs. 1,26,000/- and thereafter, he met Ajay Kundu and petitioner Sanjay Kundu, who asked him to become the partners in the fishing business and after one year, he had given his share to Ajay Kundu and Sanjay Kundu.

In reply, learned senior counsel submits that in fact the said statement of Joginder is recorded on 02.08.2021 i.e. after about one and a half month of the incident and it will be a matter of trial whether Joginder is the original lessee of the Gram Panchayat pond in order to save his own skin, he has named the petitioner as well as Ajay Kundu as the persons, to whom he has given his share as there is no such entry in the Gram Panchayat record nor any permission was taken from the BDPO concerned that he has included the petitioner and Ajay Kundu as partners in the fishing business, after the same was taken by him in an open auction.

After hearing learned counsel for the parties, considering the submissions made on behalf of the petitioner and also in view of the fact that challan qua other accused stands presented and the evidence, which has come against the petitioner, has already been placed on record, I deem it appropriate to grant the concession of interim anticipatory bail to the petitioner.

List again on 22.11.2021....”

Learned senior counsel for the petitioner has submitted that, in pursuance to the order dated 20.09.2021, the petitioner has appeared before the Investigating Officer and has joined the investigation.

Counsel for the State, on instructions from DSP Naresh Kumar, has argued that though, the petitioner has joined the investigation but he has not given the number of Creta car.

In response, learned senior counsel for the petitioner argued that the registration number of the said Creta car is HR-12-AJ-

6514, which is in the name of mother of the co-accused namely Sunita and this fact is already disclosed in the petition, itself.

In view of the above, this petition is allowed and the interim bail granted to the petitioner vide order dated 20.09.2021 is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

(ARVIND SINGH SANGWAN)
JUDGE

22.11.2021
yakub

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