

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

207

**CRM-M-38358-2020
Date of decision: 19.02.2021**

Mohit Rawat

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Ishan Gupta, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab
for the respondent-State.

Mr. Shivam Malhotra, Advocate for
Mr. Manuj Nagrath, Advocate
for the complainant.

ARUN KUMAR TYAGI, J. (ORAL)

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.215 dated 09.09.2020 registered under Sections 365, 323, 341 and 506 read with Section 34 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station Moti Nagar, District Ludhiana.

While issuing notice of motion on 19.11.2020, Co-ordinate Bench of this Court had granted interim anticipatory bail to the petitioner with direction to join the investigation and the relevant part of the said order reads as under:-

"The present petition under Section 438 Cr.P.C. has been filed by the petitioner seeking concession of anticipatory bail in case FIR No. 215 dated 09.09.2020, registered under Sections 365, 323, 341, 506, 34 IPC at Police Station Moti Nagar, District Ludhiana.

The allegations against the present petitioner are

that he along with three unknown persons forcibly accosted the complainant, who had gone to the office of ADCP-4 in some inquiry proceedings regarding the present petitioner and they started beating the complainant by taking him out of his vehicle. They threw the complainant in their vehicle and took him away towards Vardhman Chowk and also caused severe bearings to him by using sharp weapon.

Learned counsel for the petitioner has contended that the number and colour of the car given by the complainant in his complaint is different from the number and the colour of the car of the petitioner and to that effect, the complaint has been made to the higher authorities to investigate the matter.

Learned counsel for the complainant opposed the prayer of the petitioner and submitted that he has got the video recording of the occurrence having taken place.

Notice of motion.

Mr. Hittan Nehra, Additional Advocate General, Punjab accepts notice on behalf of the respondent-State.

Let the reply/status report be filed by the State by next date of hearing.

In the meanwhile, petitioner is directed to join the investigation. In the event of arrest, petitioner shall be released on pre-arrest bail at the satisfaction of the Arresting Officer/Investigating Officer subject to the following conditions, as envisaged under section 438(2) Cr.P.C:-

(i) that the petitioner shall make himself available for interrogation by a police officer as and when required;

(ii) that the petitioner 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 such facts to the Court or to any police officer;

(iii) that the petitioner shall not leave India without the previous permission of the Court.

Adjourned to 16.12.2020."

The petition has been opposed by the respondent-State in terms of status report filed by way of affidavit of Simranjit Singh, PPS, Assistant Commissioner of Police, Industrial Area-A, Ludhiana in the Registry of this Court which is taken on record.

The petition has also been opposed by the complainant.

However, no reply has been filed by the complainant.

I have heard learned Counsel for the petitioner, learned State Counsel and learned Counsel for the complainant and have gone through the record.

Learned Counsel for the petitioner has, while reiterating submissions made earlier, submitted that in compliance with order dated 19.11.2020, the petitioner has joined the investigation and he may be granted anticipatory bail as custodial interrogation of the petitioner is not required.

On the other hand, leaned State Counsel has submitted that even though the petitioner has joined the investigation but the petitioner did not cooperate and custodial interrogation of the petitioner is required for recovery of the car and datar used for commission of the crime and ascertaining the particulars of three other persons involved in the crime.

Learned State Counsel and learned Counsel for the complainant have also submitted that in view of nature of accusation and gravity of the offences, the petitioner does not deserve grant of anticipatory bail and the petition may be dismissed.

In the present case as per the prosecution version injury allegedly caused with sharp edged weapon was simple attracting Section 324 of the IPC which is bailable. Therefore, recovery of datar will not be necessary. The petitioner can be interrogated regarding alleged white car used in commission of the crime and about other three persons involved in the crime by again joining the petitioner in investigation.

In view of the facts and circumstances of the case, nature of accusation against the petitioner, the fact that custodial interrogation of the petitioner is not necessary in the case and there is no material to justify the apprehension of the petitioner fleeing from justice or tampering with evidence or criminally intimidating the prosecution witnesses, but without expressing any opinion on the merits of the case, I am of the considered view that the petitioner deserves the grant of anticipatory bail.

In view of the above, the petition is allowed and order dated 19.11.2020 granting interim bail to the petitioner is made absolute. However, the petitioner shall join the investigation again if and as and when called upon to do so and shall abide by the conditions enumerated in Section 438 (2) of the Cr.P.C., failing which the protection of anticipatory bail order shall not be available to him.

19.02.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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