

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

**CRM-M-43218 of 2021
Date of Decision:-07.12.2021**

Prince

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Ms. Ishita Jain, Advocate with
Mr. Namit Khurana, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

(Proceedings conducted through video conferencing)

AMOL RATTAN SINGH J.(Oral)

By this petition, the petitioner seeks the concession of anticipatory bail upon FIR No. 169 having been registered at Police Station Farakpur, District Yamuna Nagar, on 11.8.2021, alleging therein the commission of offences punishable under the provisions of Sections 148, 149, 232, 308 and 506 of the IPC.

On 13.10.2021 the following order had been passed by this Court :-

“Case heard via video conferencing.

By this petition, filed under the provisions of Section 438 of the Cr.P.C, the petitioner seeks the

concession of anticipatory bail, upon FIR no.169, dated 11.08.2021, having been registered at Police Station Farakpur, District Yamuna Nagar, alleging therein the commission of offences punishable under Sections 148, 149, 323, 308 and 506 of the Indian Penal Code.

Learned counsel for the petitioner submits that the petitioner has been only named in an alleged disclosure statement made in police custody by his co-accused, with there being no specific role attributed to him in the FIR at all; and further, with the FIR also having been lodged at the instance of a person other than the injured.

As regards his arguments, looking at the nature and kind of injuries as have been described in the order dated 07.10.2021 of the learned Additional Session Judge, dismissing a similar petition, obviously, it would seem only too obvious that the injured/victim may have not been in a condition to actually make any statement immediately after his injuries; and as regards no specific injury actually attributed to the petitioner, as per the FIR about 25 people attacked the injured and therefore, to determine as to who inflicted which specific injury, would obviously be almost impossible.

However, since the petitioner is stated to have been named only in an alleged disclosure statement made in police custody, notice of motion is issued to the respondent-State.

Mr. Neeraj Poswal, learned AAG, Haryana, accepts notice at the asking of the court on behalf of the respondent-State. A copy of the petition be e-mailed to him by the counsel for the petitioner today itself.

Adjourned to 07.12.2021.

Learned State counsel, as per his instructions, submits that the petitioner was named specifically in a

disclosure statement, but looking at the number of persons who are alleged to have attacked the complainant and having inflicted grievous injuries upon him, the petitioner may not be admitted to anticipatory bail.

On a specific query, he submits that so far at least as per his instructions, there is no other criminal case registered against the petitioner.

In the aforesaid circumstances, without making any comment whatsoever on the petitioners' actual involvement in the commission of the offence or otherwise, he is directed to join investigation within one week and upon his doing so, in case he is sought to be arrested, he would be admitted to interim bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Illaqa Magistrate. He shall abide by 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 Illaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation.

The Superintendent of Police, Yamuna Nagar, looking at the number of persons as alleged to have attacked the victim, is directed to file his own affidavit (to the petition), stating therein as to why no Test Identification Parade (TIP) has been conducted so far and whether the police intend to get it conducted, provided of course the victim/injured is in a condition to do so; and whether such TIP can be conducted with the complainant also to participate therein.

However, if there is any valid reason for not

conducting a TIP, that will be stated in his affidavit by the S.P.

It is further made clear that looking at the kind of injuries on the complainant, whether the petitioner should be continued on an interim bail or not, would depend on the affidavit of the S.P., Yamuna Nagar, being filed.”

Pursuant thereto an affidavit has been filed by the Superintendent of Police, Yamuna Nagar, dated 4.12.2021, which is ordered to be taken on record.

Learned State counsel points to paragraphs 7 to 10 thereof to submit that in fact the injured Rahul had got recorded a supplementary statement on 23.11.2021, to the effect that though at the time when he earlier made the statement (leading to registration of the FIR), he was not fully conscious, he remembered that the petitioner was one of the persons who had attacked him on the basis of his gait, the petitioner being his neighbour.

It has next been stated that it has come in the investigation that the petitioner was the person who had injured Rahul with bricks.

Thereafter it has been stated by the Superintendent of Police that the petitioner infact did not come himself to join the investigation but the investigating officer had gone to his house on 21.11.2021 and had 'joined him in the investigation', with a specific query put to the petitioner with regard to his mobile phone number on the day of the occurrence, upon which he stated that he had destroyed the sim card on 10.8.2021, i.e. on the next day of the occurrence, and that he had forgotten his mobile number.

Yet, the investigating officer had been able to obtain the mobile number that was being used by the petitioner and as per the call details record thereafter obtained, it was found that he had given repeated phone calls to one of the co-accused, i.e. Dharminder Kumar, about half an hour before the commission of the offence, with the petitioner's mobile phone also found to have been located at the same place of occurrence at the time in question.

Learned counsel for the petitioner again reiterates that the petitioner having been named only in supplementary statements, the same cannot be believed, and consequently, the interim order passed by this Court may be absolute.

I have considered the matter.

In view of what has been stated by the Superintendent of Police, with it also stated that his custodial interrogation is required, and further, in any case grant of anticipatory bail being a concession, also keeping in view the nature of offence in question, I see no ground to entertain this petition further. The petition is consequently dismissed and the interim order is vacated.

However, all observations made by this Court are only in the context of a petition filed under Section 438 Cr.P.C., which would not otherwise influence the investigation or trial (if it comes to that stage).

December 07, 2021
Vijay Asija

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No