

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-40940 of 2020
Date of decision:11.01.2021

Pappu Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Paras Jhamb, Advocate and
Mr. Mohit Sadana, Advocate
for the petitioner.

Mr. Saurav Khurana, Deputy Advocate General, Punjab.

Mr. D.K.Sihag, Advocate
for the complainant.

SUVIR SEHGAL, J.

The hearing of this petition has been taken up through video conferencing on account of outbreak of corona virus (Covid-19) pandemic.

Instant petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 seeking grant of anticipatory bail to the petitioner, Pappu Singh son of Bodh Singh in FIR No.206 dated 24.08.2019 (Annexure P-1) registered under Sections 302, 148 and 149 of Indian Penal Code, 1860 at P.S.Sadar Fazilka, District Fazilka.

As per the version of the prosecution, the FIR was registered on the statement of Kuldeep Kumar wherein he stated that his younger brother Sandeep Kumar was friends with Lekh Raj, who befriended Priyanka Rani, daughter of Gopal Ram. The relatives and family members of Priyanka Rani

opposed the relationship between them. On 23.08.2019, when the complainant alongwith his younger brother were going on a motorcycle, they saw Gautam, Rakesh and Manpreet Singh alongwith 8-10 other persons hitting Lekh Raj with sticks. They stopped there. In the meantime, Ram Kumar who was passing by, also stopped on seeing them. Gautam raised a *lalkara* and said that Sandeep Kumar deserves to be taught a lesson for being friends with Lekh Raj. Then the said three accused started beating Sandeep Kumar and Rakesh Kumar gave a kirch stab in the stomach of Sandeep Kumar as a result of which Sandeep Kumar fell on the ground. The complainant and Ram Kumar raised an alarm and the accused ran away from the spot. They took Sandeep Kumar to a hospital where he was declared brought dead. On 28.08.2019, the complainant recorded a supplementary statement (Annexure P-3) wherein besides the aforesaid three accused, he named Pardeep Singh alias Pappu, son of Bhag Singh, Gurjit Singh, son of Gurmej Singh, Gurdatta Singh @ Babbu, son of Raj Singh and Pawan Kumar @ Madu, son of Kalu Ram, as the other accused, who were present alongwith Gautam etc. and physically assaulted Sandeep Kumar and Lekh Raj.

Counsel for the petitioner has argued that the petitioner is neither named in the FIR nor in the supplementary statement. He submits that there is some misconception with the complainant and the police as the persons named in the supplementary statement is one Pardeep Singh alias Pappu son of Bhag Singh and not the petitioner. It is his contention that the petitioner is not known to the deceased or to the complainant and he has no

role to play in the *saga*, nor any injury has been attributed to him. He submits that the petitioner is ready to join the investigation and deserves to be released on anticipatory bail.

Per contra, State counsel upon instructions from SI Baldev Singh has opposed the petition. He is assisted by the counsel for the complainant. It has been contended that the supplementary statement was recorded by the accused after verifying the identity of the other accused, who were involved in the incident. Reference has been made to the status report dated 30.12.2020 filed by way of affidavit of Deputy Superintendent of Police, Sub-Division Fazilka to submit that the petitioner has absconded and he does not deserve the concession of anticipatory bail.

I have considered the rival submissions of the parties.

In the status report filed on behalf of the State, it has been mentioned that Sandeep Kumar died as a result of the sole injury sustained by him in his stomach. The opinion of the doctor regarding the cause of death has been given in the Post Mortem Report which is reproduced below:-

“Cause of death in this case is injury to vital organ liver which is sufficient to cause death in the ordinary course of nature.”

The petitioner alongwith other accused are alleged to have assaulted the deceased and his friend, Lekh Raj. Upon instigation by Gautam, they started beating Sandeep Kumar and one of the accused gave him the fatal blow.

It has been mentioned in the status report that the petitioner is absconding and proceedings to declare him as a proclaimed offender have been initiated, whereas the other accused have been arrested. Still further, it has been submitted that there is sufficient evidence against the petitioner and the co-accused to prove their guilt before the trial Court. It has been held by the Hon'ble Supreme Court in **Lavesh Vs. State (NCT of Delhi) reported in (2012) 8 Supreme Court Cases 730** that when a person is absconding, there is no question for granting anticipatory bail to him.

Considering the totality of the facts and circumstances, the nature of allegations, the gravity of the offence and the fact that the petitioner, who is claiming to be innocent has absconded and not joined the investigation, this Court is of the view that he is not entitled for grant of concession of anticipatory bail. The petition is, accordingly, dismissed.

It is clarified that any observation made hereinabove shall not be construed to be an expression on the merits of the case.

(SUVIR SEHGAL)
JUDGE

January 11, 2021
savita

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes