

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

102

CRM-M-49095-2021

Date of Decision : 26.11.2021

Deepak

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Jaivir Yadav, Senior Advocate
with Mr. Tarun Yadav, Advocate for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

Harsimran Singh Sethi, J. (Oral)

The present petition has been filed under Section 438 Cr.P.C. for the grant of anticipatory bail to the petitioner in respect of FIR No.206 dated 08.07.2021 registered under Sections 147, 149 and 302 of the IPC at Police Station Ganaur, District Sonapat.

Learned Senior counsel appearing for the petitioner argues that in fact, the petitioner has been roped in the present FIR on the basis of disclosure statement of a co-accused namely, Jasbir and that too because he was helping the police in getting the said co-accused arrested and naming of the petitioner by the co-accused is actually a vendetta being carried out against the petitioner for helping out the police. Learned Senior counsel appearing for the petitioner further submits that even in the disclosure statement of a co-accused, no role has been assigned to the petitioner except that the petitioner was also an accused in the incident, in which, the

deceased was attacked. Learned Senior counsel submits that as the petitioner is ready to join and cooperate in investigation he may kindly be extended the benefit of anticipatory bail.

Notice of motion.

Mr. Gaurav Bansal, AAG, Haryana, who is present in the Court accepts notice on behalf of the respondent-State and submits that the assertion as being raised by the learned Senior counsel appearing for the petitioner that the petitioner has been named due to the vendetta for helping the police in getting the co-accused arrested, is incorrect and false, rather in the disclosure statement of the co-accused namely Jasbir, the petitioner has been named as one of the accused in the incident and thereafter, in the supplementary statement detailed role played by the petitioner has been given by the co-accused. Learned State counsel further submits that the petitioner is evading his arrest for the last three months and now as proceedings for declaring him proclaimed offender have been initiated, the petitioner has filed the present petition. Learned State counsel submits that the disclosure statements of the co-accused, which have been recorded so far in the present case, describes the role of the petitioner perfectly as an accused.

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

In the present case, a life has been lost and investigation has to be carried out in an effective manner to elicit the truth behind the allegations. It is a conceded position that the petitioner has been named in the disclosure statements of the co-accused namely, Jasbir as one of the person, who not only participated in the incident but inflicted injuries upon

the deceased though, the only injury inflicted upon the deceased due to which victim Sandeep lost his life, is attributed to co-accused Jasbir. Learned Senior counsel appearing for the petitioner has not been able to dispute the fact that the petitioner has been named in the disclosure statement of co-accused as one of the person, who was accompanying the co-accused at the time of incident and has been termed as an accused. Merely, not being named in the FIR or no injury has been attributed to the petitioner either in the FIR or in the disclosure statement will not come to the rescue of the petitioner as of now for seeking grant of anticipatory bail, for the reasons that Section 149 of the IPC has been invoked so as to allege that deceased was killed in a planned manner.

Hon'ble Supreme Court of India vide order dated 20.07.2021 passed in **Criminal Appeal No.571 of 2021** titled as **Kumer Singh vs. State of Rajasthan and another** held as under:-

“The submission on behalf of the accused that the accused were alleged to have been armed with lathis and therefore they were released on bail is concerned, at the outset, it is required to be noted that all the accused are charged for the offences punishable under [Sections 302 and 307](#) read with [Section 149](#) of the IPC. At this stage, the individual role of the accused is not required to be considered when they are alleged to have been the part of the unlawful assembly. There were 26 injuries found on the dead body of the deceased and 11 injuries on the injured Vikram Singh by blunt and sharp weapons. Therefore, merely because they were armed with lathis cannot be a ground to release them on bail, in the facts and circumstances of the case, more particularly when they are charged for the offences punishable under [Sections 302 and 307](#) read with [Section 149](#) of the IPC as well as [Sections 147 and 148](#) of the IPC.

A bare perusal of the above would show that merely no injury being attributed to a particular accused, cannot be a ground to grant bail, when Sections 302 with Section 149 of the IPC have been invoked. By

applying the said ratio in the present case, where the investigation is yet to be undertaken to elicit the truth, the plea of the petitioner that even in the disclosure statement no role/injury has been assigned to him, cannot be a ground to grant him the concession of anticipatory bail.

Further, this is not a case, where allowing the petitioners to join into investigation and co-operate will achieve purpose of investigation. Even the Hon'ble Supreme Court of India in ***State represented by the C.B.I. Vs. Anil Sharma***, 1997(4) R.C.R.(Criminal) 268, has held that in case where serious allegations have been alleged and the truth needs to be elicited from the accused, the same can only be done through the custodial interrogation as compared to questioning a suspect, who is already on anticipatory bail. In the facts and circumstances of this case, custodial interrogation of the petitioner is necessary to elicit truth.

Keeping in view the facts and circumstances recorded hereinbefore, no ground is made out to allow the present petition seeking anticipatory bail to the petitioner.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

November 26, 2021
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(HARSIMRAN SINGH SETHI)
JUDGE

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