

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

204

CRM-M-49545 of 2021
Date of decision : 17.12.2021.

Ajay Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Sushil Kumar Verma, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana for the respondent-State.

SUVIR SEHGAL, J.

Vide the instant petition filed under Section 438 of the Code of Criminal Procedure, 1973, the petitioner seeks grant of anticipatory bail in case FIR No.369 dated 01.10.2021 registered for offence under Sections 326-A, 34 (Sections 120-B, 201 were added later on) of the Indian Penal Code, 1860 at Police Station Ellenabad, District Sirsa, Annexure P-1.

Criminal law has been set in motion on the basis of a complaint of a lady (hereinafter referred to as “the victim”) on the allegation that she has three children and is doing the work of a seamstress. Her husband died about three years ago and she became acquainted with Bunty, a resident of Sirsa, who started harassing her, insisting that she marry him, to which she did not agree. However, this was not acceptable to Bunty, who was supported in this by his friend, Bharat. On 01.10.2021, she and her sister Sonu arrived at Ellenabad

from Mateeli, Rajasthan, by train and when they were going to the residence of their father, they were intercepted by Bunty and one another boy on a motorcycle. Bunty threw acid on the victim and when she raised an alarm, he fled from the scene alongwith Bharat and the boy.

Counsel for the petitioner urges that the petitioner has not been named in the FIR, he has been falsely framed and he was not even present at the spot. It is his argument that disclosure statement of the co-accused on which reliance is being placed by the prosecution, is not admissible in evidence and the petitioner, who is innocent, deserves to be granted pre-arrest bail.

Petition has been opposed by the State counsel, who has filed a status report by way of affidavit of DSP, Ellenabad, District Sirsa on behalf of the respondent-State, which is taken on record. By referring to the same, he submits that after getting a copy of the MLR, Annexure R-1, of the victim, the statement of her sister, who was an eye witness, was recorded and she has duly identified all the three accused. He submits that both Bunty and Bharat had been arrested and in their disclosure statement, Bunty has named the petitioner as one of the conspirators and has submitted that after the purchase of acid by Bharat from Pradeep Kumar, a shopkeeper, he passed it on to him in a pitcher and on the fateful day, Bunty sat on the pillion of the motorcycle driven by the petitioner and threw acid on the victim. It has been further disclosed by co-accused Bunty that after the commission of the offence, while fleeing from the spot they broke the memory card and also destroyed the mobile. On the basis of the status report, he submits that recovery of the broken mobile, soiled steel pitcher (lota) with residue acid and motorcycle of the co-accused, Bharat, has been effected.

I have considered the arguments addressed by counsel for the parties.

Though the petitioner has not been named in the FIR but he has been duly identified by an eye-witness. Furthermore from the call details of the two arrested accused and their disclosure statements, the probability of the petitioner being involved cannot be ruled out. The petitioner is alleged to have played an active role and it appears that despite being aware of the intention of the main accused, Bunty, he helped him in committing a heinous crime by taking him on a motorcycle which belongs to his brother-in-law.

Keeping in view the totality of the facts and circumstances, nature of allegations, gravity of offence and the probability of the complicity of the petitioner in crime, this Court is not inclined to exercise the discretionary power and grant the concession of anticipatory bail to the petitioner.

Petition is dismissed.

However, any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

17.12.2021
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No