

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

202

**CRM-M-55200-2019
Date of decision : 03.08.2021**

Balwinder Singh and anotherPetitioners

Versus

State of U.T. ChandigarhRespondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Keshav Pratap Singh, Advocate
for the petitioners.

Mr. Rajeev Anand, Addl. Public Prosecutor
for U.T. Chandigarh.

None for the complainant.

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioners have 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.289 dated 24.11.2019 registered under Sections 147, 148, 149, 323, 324, 341 and 506 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station North, Sector 3, Chandigarh to which Sections 307 and 325 of the IPC were added lateron.

Vide order dated 22.01.2020, this Court had granted interim anticipatory bail to the petitioner with direction to join the investigation.

The petition has been opposed by the respondent-State. However, no reply has been filed by the respondent-State.

I have heard learned Counsel for the petitioners and learned State Counsel and have gone through the relevant record.

Learned Counsel for the petitioners has submitted that the petitioners have been falsely implicated in the case. The complainant,

who was in drunk condition created ruckus and suffered injury somewhere else, falsely implicated the petitioners. As per the allegations made in the FIR petitioner No.1-Balwinder Singh @ Binder along with three unknown boys who had muffled their faces had attacked the complainant-Davinder Singh and his companion-Kuldeep Singh and petitioner No.1 is alleged to have given blow of sword on the head of complainant whereas petitioner No.2 is not attributed any specific blow. Offence under Section 307 of the IPC is not made out and has been subsequently added in the FIR to increase the gravity of the accusation. Subsequently, the matter has also been compromised between the petitioners and complainant-Davinder Singh as well as injured-Kuldeep Singh and petition for quashing of the FIR on the basis of compromise is to be filed. In compliance with order dated 22.01.2020, the petitioners have joined the investigation. Therefore, the petitioners may be granted anticipatory bail.

Learned Addl. Public Prosecutor has vehemently opposed the petition and submitted that in view of gravity of accusation, the petitioners do not deserve grant of anticipatory bail. Therefore, the petition may be dismissed.

However, learned Addl. Public Prosecutor, on instructions of S.I. Rajinder Singh, has acknowledged that in compliance with order dated 22.01.2020 passed by this Court, the petitioners have joined the investigation and that their custodial interrogation is not required in the case.

In view of the facts and circumstances of the case, nature of accusation against the petitioners, the fact that the matter has been compromised by the parties and the fact that custodial interrogation of the petitioners is not required in the case and there is no material to justify the apprehension of the petitioners 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 petitioners deserve the grant of anticipatory bail.

In view of the above, the petition is allowed and order dated 22.01.2020 granting interim anticipatory bail to the petitioners is made absolute. However, the petitioners 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 them.

03.08.2021

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(ARUN KUMAR TYAGI)
JUDGE

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