

206-B

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

CRM-M-1942-2022

Date of decision : 08.12.2022

Gian Chand

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Abhimanyu Singh, Advocate for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

Mr. Lovish Rattan, Advocate for

Mr. Surinder Sharma, Advocate for the complainant.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.246 dated 18.10.2021 registered under Sections 341, 323, 427, 506, 148, 149 of the Indian Penal Code, 1860 (Section 379-B of IPC has been added later on) at Police Station City Phagwara, District Kapurthala.

On 18.01.2022, the petitioner has been granted interim anticipatory bail by a Coordinate Bench of this Court by passing the following order:-

“Notice of motion for 29.03.2022.

To be heard along with CRM-M-832 of 2022.

Interim order in the same terms.

January 18, 2022

Sd/- (Harinder Singh Sidhu)

Judge”

A perusal of the above order would show that reference in the

same was made to CRM-M-832-2022 which was a petition filed by co-accused Surjit Lal, Sunil Kumar and Gurjeet. The order dated 14.01.2022 passed in CRM-M-832-2022 is reproduced here as under:-

“This is a petition filed under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No. 246, dated 18.10.2021 registered under Sections 341, 323, 427, 506, 148, 149 IPC (Section 379 B IPC added later on) at Police Station Phagwara, District Kapurthala.

FIR was lodged on the complaint of one Bittu who stated that he deals in scrap. One Gian also has a scrap shop at a distance of 1 kilometer from the shop of complainant. As both of them are dealing in same business, they frequently quarrel regarding their customers. It is alleged that Gian always attempted to demean the complainant. On 17.10.2021 at about 2.20 am in the morning, complainant was travelling in XUV alongwith another vehicle towards village Padi Khalsa. When they reaching near the Divine Public School, 2 white cars and a Tata 207 vehicle in which 15-20 persons were present stopped the complainant. When the complainant open the window pane and asked the reason why he was stopped, then Gian raised lalkara that complainant be caught and taught a lesson for alluring the customers of Gian and causing loss to them. It is alleged that injuries were caused to complainant by nephew of Gian by using karra. The complainant escaped in his car but he was again intercepted and further injuries were caused by using datar and karra. In the quarrel, Rs. 35000/- which the complainant was carrying fell down. One gold chain also fell down. In the meantime, people gathered there and accused ran away from spot.

Learned counsel for petitioner has contended that

petitioners having not been named in FIR. All the offences areailable. Section 379 B IPC was only added subsequently. He further states that infact present FIR was a counter blast to the allegations made by one Sanju (nephew of Gian) against complainant party. He alleges that it was complainant party who had attacked Sanju and caused him grievous injury on the forehead. He further states that petitioners have a shop adjacent to complainant's shop and attempt will be made to resolve the outstanding dispute/misunderstanding between them. He undertakes that petitioners shall cooperate in investigation.

Notice of motion for 29.3.2022.

In the meanwhile, in the event of arrest of petitioners, they shall be released on interim anticipatory bail to the satisfaction of Arresting/Investigating Officer. They will join investigation as and when called for and cooperate in same. They will abide by conditions of Section 438 (2) Cr.P.C.

*Sd/-(HARINDER SINGH SIDHU)
JUDGE*

14.1.2022”

Learned counsel for the petitioner has submitted that in pursuance of the abovesaid orders, the petitioner has joined the investigation.

Learned counsel for the State, on instructions from ASI Sunil Kumar, has submitted that the petitioner has joined the investigation and is not required for any further custodial interrogation.

Learned counsel for the complainant has submitted that the petitioner is involved in three other cases, out of which, one case is of the year 2006 and others are of the years 2021 and 2022.

Learned counsel for the petitioner, in rebuttal, has relied upon

the judgment of Hon'ble Supreme Court in “***Maulana Mohd. Amir Rashadi vs. State of U.P. and another***”, reported as ***2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

Keeping in view the abovesaid facts and circumstances as well as law laid down in ***Maulana Mohd. Amir Rashadi's*** case (Supra) moreso, the facts which have been noticed in the abovesaid orders and also the fact that the petitioner has joined the investigation and is not required for further custodial interrogation, the present petition is allowed and the interim order dated 18.01.2022, is ordered to be made absolute.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

08.12.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Whether reportable:-

Yes/No

Yes/No