

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-2418-2022

Date of decision : 24.03.2022

Lekhraj and another

... Petitioners

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Akshay Kumar Jindal, Advocate
for the petitioners.

Mr.Praveen Bhadu, AAG, Haryana.

Mr. Gopal Soni, Advocate
for the complainant.

(Through Video Conferencing)

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioners in FIR no.252 dated 16.12.2021 registered under Sections 147, 149, 323, 325 IPC (Section 307 IPC added later on) at Police Station Sector 65, District Gurugram.

On 20.01.2022, a coordinate Bench of this Court was pleased to pass the following order:-

“Present petition has been filed under Section 438 Cr.P.C. for the grant of pre-arrest bail in FIR No.252 dated 16.12.2021 registered under Sections 147,149,323,325 IPC (Section 307 IPC added later on) at Police Station Secor-65, District Gurugram.

Learned counsel for the petitioners argues that the petitioners and the complainant are sons of real brothers and the incident which is stated to have occurred, has led to the registration of FIR No.252 dated 16.12.2021. Learned counsel for

the petitioners submits that the parties have already compromised their issues and the compromise deed has also been placed on record as Annexure P-4. Learned counsel for the petitioners further submits that Section 307 IPC has been added without there being any valid justification as the injuries inflicted were not dangerous to life and as the petitioners are ready to join the investigation and cooperate even for the recovery of alleged weapon, they may be granted the benefit of prearrest bail, keeping in view the facts and circumstances of this case as stated hereinbefore.

Notice of motion.

Mr. Gaurav Bansal, Assistant Advocate General, Haryana, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State.

Learned counsel for the State submits that though, even it is assumed for the sake of arguments that the parties have compromised their dispute but once Section 307 IPC has been invoked, the compromise cannot come into operation for the said offence and as the recovery of the weapon is yet to be made from the petitioners, the custodial interrogation of the petitioners is necessary.

Learned counsel for the complainant does not oppose the prayer for the grant of pre-arrest bail to the petitioners.

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

The factum whether Section 307 IPC comes into operation or not in the facts and circumstances of the present case is a matter of investigation and thereafter, has to be proved during the trial on the basis of the evidence, which will come on record. Once the parties have already compromised their dispute and the complainant as well as the petitioners are relatives (sons of real brothers), coupled with the fact that the petitioners have undertaken to appear before the Investigating Agency to join investigation and cooperate even for the recovery of alleged weapon, the purpose of investigation can be achieved in case the petitioners are directed to join the investigation as they have undertaken to cooperate with the investigation.

Petitioners are directed to join the investigation forthwith.

In the event of their arrest, they shall be released on

interim bail to the satisfaction of the Arresting Officer/Investigating Officer on their furnishing bail bonds/surety bonds to his/her satisfaction subject to the following conditions:

i) That they shall make themselves available for interrogation by the police officer as and when required.

ii) That they shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the said facts to the Court or to any police officer.

iii) That they shall not leave India without prior permission of the Court.

iv) That they shall abide by all the conditions as enshrined under Section 438(2) Cr.P.C.

Adjourned to 24.03.2022.

It is, however, made clear that after the petitioners join the investigation, in case any incriminating material comes against the petitioners, the respondent-State will be at liberty to file appropriate application seeking the custody of the petitioners in case, the same is needed.

January 20, 2022 (HARSIMRAN SINGH SETHI)
JUDGE”

Learned counsel for the petitioners has submitted that the in pursuance of the said order, the petitioners have joined the investigation.

Learned State counsel, on instructions from ASI Vikram Singh, has submitted that the petitioners have joined investigation and are not required for further investigation.

Keeping in view the above said facts and circumstances moreso, the facts which have been noticed in the order dated 20.01.2022, and also the fact that the petitioners have joined the investigation and are not required for further investigation, the present petition is allowed and the interim order dated 20.01.2022 is made absolute.

Nothing stated above shall be construed as an expression of

of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

March 24, 2022
Davinder Kumar

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