

102

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

CRM-M-2793-2022

Date of decision : 28.03.2022

Mohammad Rafiq

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Munish Puri, Advocate for the petitioner.

Mr. Harpreet S. Multani, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.163 dated 02.09.2021 registered under Section 324 of the Indian Penal Code, 1860 (Section 326 of IPC has been added later on) at Police Station Shahpurkandi, District Pathankot.

On 24.01.2022, a Coordinate Bench of this Court was pleased to pass the following order:-

“The present petition has been filed by the petitioner seeking anticipatory bail in case FIR No.163 dated 02.09.2021, under Section 324 IPC (Section 326 IPC added later on), registered at Police Station Shahpurkandi, District Pathankot.

Learned counsel for the petitioner has argued that the present is a case of version and cross-version, where the

petitioner as well as the complainant received injuries. Learned counsel for the petitioner has submitted that as of now the aggressor party is yet to be ascertained and since the injury attributed to the petitioner is on a non-vital part, and the petitioner is ready to join the investigation and cooperate, even with respect to the recovery of the alleged weapon, therefore, the petitioner may kindly be extended the concession of anticipatory bail.

Learned State counsel concedes the factum that in the present case, on asking of the petitioner, Rapat No.16 dated 09.12.2021 had been registered, hence, it is a case of version and cross-version and also the factum that the petitioner also received injury in the said incident. Learned counsel submits that as the weapon attributed to the petitioner is yet to be recovered, his custodial interrogation is necessary.

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

Keeping in view the fact that both the parties have suffered injuries in the incident and the aggressor party is yet to be ascertained and the petitioner has undertaken before this Court to join the investigation and cooperate even in respect of recovery of the alleged weapon as well as coupled with the fact that the injury attributed to the petitioner is on non-vital part, the purpose of investigation will be achieved if the petitioner is granted interim relief from arrest with the condition that he be joined the investigation in terms of the above mentioned submissions by counsel for the petitioner.

Petitioner is directed to join the investigation forthwith.

In the event of his arrest, he shall be released on interim bail to the satisfaction of the Arresting

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

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

(ii) That he 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 he shall not leave India without prior permission of the Court.

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

Adjourned to 28.3.2022.

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

January 24, 2022

Sd/-(HARSIMRAN SINGH SETHI)

JUDGE ”

Learned counsel for the petitioner has submitted that in pursuance of the abovesaid order dated 24.01.2022, the petitioner has joined the investigation.

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

Keeping in view the abovesaid facts and circumstances moreso, the facts which have been noticed in abovesaid order dated 24.01.2022 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 24.01.2022 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.

28.03.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No