

103

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

CRM-M-11416-2022

Date of decision : 17.03.2022

Amit Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Namit Khurana, Advocate for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.444 dated 20.11.2021 registered under Sections 323, 325, 341, 506 of the Indian Penal Code, 1860 at Police Station Gandhi Nagar, District Yamuna Nagar.

Learned counsel for the petitioner has submitted that in fact, the petitioner has a dispute with his wife and the complainant was actually the reason for the dispute between the petitioner and petitioner's wife not getting resolved as the complainant was not allowing the matter to be compromised and it is on account of the said fact that the complainant had got false FIR registered against the petitioner. It is further submitted that there is a delay of 13 days in registration of the FIR. It is argued that the

petitioner was not even aware about the present FIR and he came to know only when the police officials visited his house. It is also further argued that all the offences in the present case are bailable except Section 506 of IPC.

This Court has heard the learned counsel for the petitioner and perused the paper book.

In the present case, FIR has been registered by Sarwan Kumar (the complainant) on the allegations that there are cases pending between the present petitioner and his sister-in-law namely Laxmi Devi (i.e. the petitioner's wife) and the said sister-in-law lives at her parental home in UP and the date in the pending case of his sister-in-law namely Laxmi Devi, was fixed in the Court at Jagadhri for 19.10.2021 due to which, she had come from her parental house to the house of the complainant and thereafter, the date was fixed for 17.11.2021. Due to the said reason, sister-in-law Laxmi Devi was living at the house of complainant. On 07.11.2021, at about 08:00 pm, when the complainant reached near his house from work then, the present petitioner who was armed with an iron rod had stopped him and inflicted injury on his right leg, on account of which, the complainant fell down. It is the allegation in the FIR that the petitioner while running away had stated that it is the complainant who had been creating difficulty in the compromise being effected between the petitioner and his wife. The said injury which has been alleged to have been caused by the petitioner, as per the prosecution, is a grievous injury inasmuch as the MLR had recorded a fracture on the right leg of the complainant, regarding which, rapat No.19 dated 08.11.2021 has been recorded. It would also be relevant to note that as per the police proceedings in the FIR, the

complainant was initially not fit to make a statement. It has also been alleged in the FIR that the petitioner had threatened the complainant that in future, if the complainant would beat him then he would kill the complainant. The anticipatory bail application filed by the petitioner was dismissed by the Sessions Judge, Yamuna Nagar, after noticing that the iron rod was to be recovered from the petitioner and also the injuries given were grievous in nature. The allegations levelled in the FIR are serious and even the injury caused is a fracture and that too, with an iron rod, which is a dangerous weapon. The threats which have been given by the petitioner also, prima facie, constitute offence under Section 506 of IPC. The motive which has been alleged in para 3 of the petition to the effect that it was the present complainant who was not allowing the compromise to take place between the petitioner and the petitioner's wife, substantiate the allegations levelled in the FIR and also prima facie show that it is the petitioner who had a higher motive to beat up the complainant. The argument of the learned counsel for the petitioner to the effect that the petitioner had only learnt about registration of FIR when the police officials came to his house and he was not aware about the prior incident is absolutely vague and baseless. In the petition, it has not been even averred as to on what day, the police officials had come and as to how the petitioner was able to escape and is still praying for anticipatory bail. Although, there is some delay in the registration of the FIR, but it would be relevant to note that it had been initially noted that the complainant was not fit to make a statement and thus, the said delay would also not entitle the petitioner to the concession of anticipatory bail in view of the serious allegations against the petitioner.

Moreover, in the entire petition, it has not been mentioned as to where the petitioner was on the date of the alleged incident. Further, recovery of the weapon of iron rod is also to be effected from the petitioner.

Keeping in view the abovesaid facts and circumstances, this Court is of the opinion that the custodial interrogation of the petitioner is required. Accordingly, the present petition is dismissed.

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.

17.03.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No