

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

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CRM-M-13165-2022

Date of decision: 19.07.2022

R.K.NAHAR

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present : Mr. Amardeep Singh Gill, Advocate
for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner, by filing the present petition, cast under Section 438 of Cr.P.C., seeks grant of anticipatory bail in case FIR No.66 of 20.05.2021, registered at Police Station Bhargo Camp, District Jalandhar, wherein offences constituted, under Sections 307, 341, 323, 324, 148, 149, 201 of the IPC, are embodied.

2. The members of the unlawful assembly are alleged to commit the offences (supra). The learned State Counsel on instructions given to him, by ASI Daljinder Lal, submits that simple injuries, as became encumbered on the person of the injured, were a sequel, of the victim being assaulted by one Mukul, Narinder @ Vicky, Lucky, Sham Murari @ Kuddu, Gopy and Laksh. Moreover, he submits that co-accused Mukul struck the head of the victim with a *kirpan*.

3. Be that as it may, the present bail petitioner was not present at the crime site, nor, he caused any assault on the person of the

victim, but the prosecution assigns to him, the role of his financing the crime, and, the above role erupts from a disclosure statement made by Mukul, during the latter's custodial interrogation.

4. In the disclosure statement of Mukul, wherein, he assigns the above inculpatory role to the present bail petitioner, though, there are mentionings, about the present bail petitioner financing crimes committed earlier to the commission of the petition offences, and, also, qua his financing the extant crime, but neither the amounts received by the principal accused, become recited in the disclosure statement, as drawn by the investigating officer, nor the amounts became recovered by him, at the instance of the accused concerned.

5. In consequence, may be the above deficit(s) in the disclosure statement, rather may not, prima facie envelop the incriminatory role assigned to the present bail petitioner, hence with any aura of authenticity. Therefore, this court becomes constrained to admit the present bail petitioner to pre-arrest bail. Moreover, since at this stage no evidence has been adduced by the prosecution, suggestive that in the event of the bail petitioner being enlarged on anticipatory bail, there is every likelihood of his fleeing from justice, and/or, tampering with prosecution evidence, thereupon too, it is not deemed fit to decline the relief of pre-arrest bail to the petitioner.

6. However, at this stage, the learned State counsel submits, that since the bail applicant-petitioner is a habitual offender, thereupon there is every possibility of the bail applicant-petitioner abusing the facility of bail, as may become accorded to him. However, the vigour of the afore made submission, of the learned State Counsel, before this

Court, can be mitigated, by imposition of stringent conditions, upon the bail applicant-petitioner.

6. In nutshell, the instant petition is allowed, and, the order made by this Court on 30.03.2022, is made absolute on the same terms and conditions, and, also with a condition that the bail applicant-petitioner shall forthwith furnish personal, and, surety bonds in the sum of Rs.50,000/- each, to the satisfaction of the arresting officer concerned. Furthermore, the bail applicant-petitioner shall also give an undertaking before the arresting officer, that as and when he is summoned through a written Hukamnama, he shall ensure his rendering his cooperation to the investigating officer and shall not influence the prosecution witnesses, and, also shall not tamper with the prosecution evidence.

7. In addition, in case, the bail applicant-petitioner re-indulges in criminal activities, thereupon, it is open to the investigating officer concerned to forthwith arrest the bail applicant-petitioner, and, thereafter to produce him before the learned Magistrate concerned, for the latter making an order for his being put to judicial custody.

8. The afore observations are meant only for the disposal of the present petition, and, shall not affect the merits of the trial arising from the FIR (supra).

19.07.2022
kavneet singh

(SURESHWAR THAKUR)
JUDGE

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