

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

CRM-M-24723-2022

Date of decision : 01.06.2022

Neeraj

..... Petitioner

versus

State of UT Chandigarh and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Subash Kumar, Advocate
for the petitioner.

Mr. Y.S. Rathore, Addl. PP for UT Chandigarh.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for grant of anticipatory bail to the petitioner in case FIR No.62 dated 08.05.2022, under Sections 147, 148, 149, 323, 341, 354, 307, 506 of Indian Penal Code, 1860, registered at Police Station Maulijagan, UT Chandigarh.

As per the facts of the case, the FIR was lodged by the complainant. It was alleged that on 30th April, 2022, her children i.e. the son and daughter were coming from the tuition from Vikas Nagar where a boy namely Ajit teased her daughter and created nuisance with her. The children informed about the same to the family members on which she made a complaint about the same to the mother of Ajit and she was assured by her that Ajit would not repeat the same. However, one hour thereafter, when she was sitting in her shop, Ajit along with his brothers namely, Neeraj (petitioner), Sujit, Sandeep and three other friends from Sanjay Colony who were duly armed with hockey and swords attacked them. They gave injuries with the swords which hit on the left side of her head, due to which, she suffered a cut on her ear. She was beaten and

given kick blows. They were rescued by the neighbours. They called the police and were taken to Sector-32 Hospital where medical was conducted and treatment was given. However, thereafter, the police pressurized them for compromising the dispute. The police took their signature forcibly on blank papers on 4th May, 2022 in the evening at 12:00 PM. When she was coming back from the hospital, Sujit brother of Ajit tried to kill her by rolling the Tempo bearing No.CH01TB 4502 on her, due to which, she fell down. The FIR was lodged to take the legal action against the culprits. On the commencement of the investigation, the co-accused were arrested, however, they being the juvenile were granted bail. The petitioner and the co-accused were arrested. The petitioner approached the Court of learned Additional Sessions Judge, Chandigarh praying for grant of anticipatory bail. After hearing counsel for the parties, learned Additional Sessions Judge, declined the same vide order dated 25th May, 2022. Aggrieved by the same, the petitioner is before this Court praying for grant of anticipatory bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He has submitted that the occurrence in question has taken place on 30th April, 2022 whereas, the present FIR has been lodged after unexplained delay of eight days i.e. on 8th May, 2022. He submits that the co-accused have already been granted bail in this case. He submits that the petitioner and the complainant are neighbourer and the daughter of respondent No.2-complainant is having friendly relationship with brother of the petitioner i.e. Ajit which is being opposed by the complainant side and hence, due to the same, her brothers had given beating to Ajit. He submits that on

account of the same, the complainant has implicated the petitioner in this case. He submits that the complainant side has given beating to the father of the petitioner which has been intentionally concealed by the investigating agencies. He submits that though, both the sides have sustained injuries, however, the police has registered the case under the pressure of the complainant side only against the petitioner side. He submits that in view of the same, no offence under Section 307 IPC is made out and thus, the petitioner deserves to be granted anticipatory bail.

I have heard counsel for the petitioner and perused the record.

After hearing counsel for the petitioner and perusing the record, it is apparent that both the parties are living in the same locality. The petitioner has been specifically named in the FIR. The complainant has suffered injuries and she was medically examined. So far as granting bail to the co-accused are concerned, they were juvenile and thus, the petitioner cannot claim parity with the co-accused.

In the overall facts and circumstances, for the consideration of granting anticipatory bail, the Court is to take into consideration the relevant factors like gravity of the offence, the probability of the accused tampering with the ongoing investigation and his chances of fleeing from the justice. The investigation is at threshold. The case needs a thorough and fair investigation for unravelling the truth in the allegations levelled. Hence, quality of investigation cannot be compromised in any circumstances.

Hon'ble the Supreme Court in State (rep by CBI) Vs. Anil Sharma, (1997) 7 SCC 187 held as under:-

6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.

Keeping in view the overall facts and circumstances, this Court is of the opinion that the petitioner do not qualify for the grant of anticipatory bail on the anvil of the statutory provisions of the law settled. Thus, the petition being devoid of any merits is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

01.06.2022
m.sharma

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No