

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-31153-2022  
DECIDED ON: 09.11.2022

VISHAL

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

**CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.**

Present: Mr. Sarfraj Hussain, Advocate  
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

**SANDEEP MOUDGIL, J (ORAL)**

The petitioner in the instant petition has sought anticipatory bail under Section 438 of the Code of Criminal Procedure arising out of FIR No.269 dated 04.09.2020, under Sections 379B, 302 and 120-B of the IPC, registered at Police Station Madhuban, District Karnal.

Learned counsel for the petitioner submits that in pursuance to the order dated 04.08.2022, the petitioner has joined the investigation.

The contention raised by the petitioner as being repeated today, has been duly recorded already in the order dated 04.08.2022 and considered while granting him the interim protection under Section 438(2) Cr.P.C., which reads as under:-

“Learned counsel appearing for the petitioner  
inter alia contends that the FIR in the present case had  
been registered at the instance of Sakib and one Habib

was also cited as an eye witness to the occurrence. One co accused person namely Gurnam @ Sawan was initially arrested by the Investigating Agency in connection with the commission of the aforesaid offences. The name of the petitioner figured in the disclosure statement of Gurnam @ Sawan as well as the other co-accused person namely Ram Singh @ Ashu. At the time of the Test Identification Parade conducted by the Investigating Agency, the aforesaid co-accused persons were identified by the said witnesses. The petitioner, however, was not arrested by the Investigating Agency and trial qua the said co-accused persons commenced. The complainant-Sakib, an eye witness, appeared as PW-6 and has not supported the case of the prosecution. A relevant extract from his deposition is extracted as under:

*"I do not move any complaint before the police authority. My uncle (Chacha) Najmul had not been murdered by the accused present in the Court. Today I have seen the accused person present in the Court, they are not those persons who had murdered by uncle (Chacha) Najmul in the scuffle.*

*I have heard and seen complaint Ex. P7, no such complaint has been moved by me to the police.*

*I had stated to the police in my complaint Ex. P-7 that on Najmul son of Safayat is my uncle (Chacha) or that he was working as driver on truck bearing registration No. HR 55-M-9405 or that I was working as conductor on the said truck*

*with my uncle or that on 03.09.2020, I and my uncle Najmul had unloaded the truck at Yamuna Nagar or that thereafter we had started for Delhi or that the said truck was driven by my uncle Najmul and I was sitting beside him on a conductor seat or that on 04.09.2020, at about 2.00 a.m., when they reached near the government school in the area of village Kairwali, then, one car had overtake their truck or that thereafter the driver of the said car had stopped their car in front of our truck or that about 5 to 6 youth were sitting in that car or that all of them were armed with knives and dandas or that all of them alighted from the car or that they also alighted us from the truck forcibly or that all the youth started giving bearings to me and my uncle or that due to fear, I fled away from the truck or that all the youth caught hold my uncle Najmul or that started giving injuries to my uncle Najmul with their respective weapons or that thereafter all the youth snatched currency notes of Rs. 35,000/- from the pocket of my uncle Najmul and one mobile of Samsung company."*

The other eye witness namely Habib appeared as PW-7 and also made a similar statement before the Court while deposing as a witness. A relevant extract from his examination-in-chief, reads thus:

*"My brother Najmul had not been murdered by the accused present in the Court. Today I have seen the accused persons present in the court, they are not those persons who had murdered my brother Najmul in the scuffle."*

The learned counsel, thus, contends that name of the petitioner figured in the disclosure statement of Gurnam @ Sawan and that the prosecution witnesses have denied presence of Gurnam @ Sawan at the place of occurrence and as such, the fact of the participation of the petitioner in the commission of the offence itself is suspect. He further contends that the petitioner is ready and willing to join investigation as and when required to do so and extend full co-operation. It is also submitted that the petitioner is not involved in any other criminal case.”

Looking into the totality of facts and circumstances as well as keeping in view the aspect that the factum of joining the investigation has not been disputed by the learned State counsel, though, he asserts that recovery of knife is to be made from the possession of the petitioner, inasmuch as the injury is attributed to the petitioner with the knife and apart from the fact that the question with regard to the injury caused by the petitioner is disputed and certain witnesses have turned hostile in the present case during the course of trial.

Interim bail granted to the petitioner vide order dated 04.08.2022, is made absolute.

Disposed of accordingly.

(SANDEEP MOUDGIL)  
JUDGE

09.11.2022

*poonam negi*

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