

203

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39990-2021 (O&M)
Date of Decision: 07.01.2022

Dharminder Singh

.. Petitioner

Vs.

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Mandeep Kaushik, Advocate for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.

Mr. Kulwinder Singh, Advocate
for the complainant.

...

Manoj Bajaj, J. (Oral)

Petitioner has filed this petition under Section 438 Code of Criminal Procedure for grant of anticipatory bail in a case FIR No.161 dated 29.06.2021 under Sections 324/341/323/506/148/149 IPC (Section 326 IPC added later on), registered at Police Station Sadar, District Patiala. The petitioner apprehended his arrest at the hands of Police, in the above FIR.

Learned counsel for the petitioner has invited the attention of the Court to the order dated 24.09.2021 whereby while issuing notice of motion to the respondent-State, the interim protection was extended to the petitioner. The said order reads as under:-

“Learned counsel for the petitioner contends that it is a case of version and cross-version. Both the parties have received injuries. Petitioner has received three injuries on his person as against one injury received by the complainant. The grievous injury on the person of complainant is on left arm.

Learned counsel by referring to the FIR further submits that co-accused Gurjit Singh came out of the car and he was armed with kirpan. Rajinder Singh was armed with rod

and Sukhdev Singh was armed with danda. Other persons were empty handed. Later on, the complainant improved the version thereby attributing injury to the petitioner who was shown to be empty handed in the original version. No FIR has been registered in respect of injuries on the person of petitioner and only a DDR has been registered on 28.06.2021. There is inordinate delay in lodging the FIR on 29.06.2021 whereas medico-legal report of the petitioner was very much available with the police on 28.06.2021 itself and the police waited for sufficient time till statement of the complainant is recorded.

Notice of motion for 16.12.2021.

In the meanwhile, petitioner is directed to appear before the SHO/Investigating Officer to join investigation on 29.09.2021 at 11.00 A.M. and in the event of his arrest, he shall be enlarged on interim bail, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of Arresting Officer.

However, petitioner shall abide by the conditions as envisaged under Section 438(2) Cr.P.C. Nothing expressed hereinabove shall be construed to be an opinion in the merits of the case. The case shall be decided on the merits on the adjourned date.”

Learned counsel for the petitioner further submits that in deference to the above order, the petitioner submitted himself before the Police and joined the investigation. According to him, the custodial interrogation of the petitioner may not be necessary.

Learned State counsel, who is assisted by ASI Narinder Singh has opposed the prayer on the ground that the petitioner is the accused, who caused the solitary injury to the injured and the weapon of the offence is yet to be recovered. However, it is not disputed that in the subsequent statement made by the complainant, the petitioner was shown to be armed with a weapon.

At this stage, learned counsel for the complainant has pointed out that a cross case recorded through DDR on 28.06.2021 against injured complainant of FIR was found false.

To a pointed query by this Court, it is admitted by learned counsel for the complainant that on the basis of a representation given to the

police officer on behalf of the complainant regarding his innocence, it has been found that the cross case is not made out.

After hearing the learned counsel for the parties and considering the nature of offence, particularly the statements of the complainant, this Court without expressing any opinion on the merits of the case, does not find any merit in the argument on behalf of the learned State counsel that the custodial interrogation is necessary to recover the weapon.

Resultantly, the petition is allowed and the interim bail granted by this Court vide order dated 24.09.2021 is made absolute.

07.01.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No