

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

204

CRM-M-48369-2021

Date of decision: 03.03.2022

HARJINDER SINGH AND ANOTHER

.....PETITIONERS

Versus

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

Present : Mr. Gurmeet Singh Saini, Advocate
for the petitioners.

Mr. Tanvir Joshi, AAG, Punjab
for the respondent-State.

Mr. Mandeep Sajjan, Advocate
for Ms. Suman Kumari, Advocate
for the complainant.

SANT PARKASH, J. (ORAL)

The case has been taken up for hearing through video conferencing.

Prayer in this petition under Section 438 of the Code of Criminal Procedure, 1973 is for grant of anticipatory bail to the petitioners, in case, FIR No. 63 dated 04.12.2020 registered under Sections 308, 323, 148 and 149 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station Arif Ke, District Ferozepur to which Section 325 of the IPC was added later on.

While issuing notice of motion on 18.11.2021, this Court granted interim anticipatory bail to the petitioners with direction to join the investigation. Relevant part of order dated 18.11.2021 reads as under :-

“The allegations against present petitioners and their co-accused are that they inflicted injuries on the person of Daljeet Singh-complainant, his brother Sukhdev Singh and paternal uncle Surjeet Singh.

It is also apparent from the record that the present case is a case of version and cross version because with regard to the same occurrence, a DDR No.22 dated 21.11.2020 under Sections 323, 148 and 149 IPC (Section 325 IPC added later on) has been registered on the statement of petitioner No.1-Harjinder Singh against the complainant party.

It is contended that the injury allegedly attributed to the present petitioners, though on the vital part i.e. the head of the complainant, has been declared simple in nature and the petitioners are no more required for further investigation.

Notice of motion for 03.03.2022.

Mr. Tanvir Joshi, Assistant Advocate General, Punjab accepts notice on behalf of respondent-State and seeks time to file reply. Copy of the paper book be supplied to learned State counsel, during the course of the day by hand or through e-mail.

Ms. Suman Kumari, Advocate has put in appearance on behalf of the complainant-Daljeet Singh and filed power of attorney, which is taken on record. She opposed the prayer made on behalf of the petitioners urging that the injury is on the vital part of the body, which is the reason of dismissal of two bail applications filed by the petitioners before learned Additional Sessions Judge, Ferozepur.

In the meanwhile, petitioner is directed to join the investigation. In the event of arrest, petitioner shall be released on pre-arrest bail at the satisfaction of the Arresting Officer/Investigating Officer subject to the following conditions, as envisaged under section 438(2) Cr.P.C:-

- (i) that the petitioner shall make himself available for interrogation by a police officer as and when required;*
- (ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;*
- (iii) that the petitioner shall not leave India without the previous permission of the Court..."*

I have heard learned Counsel for the parties and gone through the case file.

Learned Counsel for the petitioners has, while reiterating

submissions made on 18.11.2021, submitted that in compliance with order dated 18.11.2021, the petitioners have joined the investigation and they may be granted anticipatory bail as their custodial interrogation is not required in the case.

Learned State Counsel has, on instructions from A.S.I. Sukhdev Singh, acknowledged that in compliance with order dated 18.11.2021 passed by this Court, the petitioners have joined the investigation and that their custodial interrogation in the present case is not required.

Learned Counsel for the complainant has opposed the bail application on the ground that two successive bail applications filed by the petitioners have been dismissed by the learned Courts below.

In view of the facts and circumstances of the case, particularly the fact that custodial interrogation of the petitioners is not required in the case but without expressing any opinion on the merits of the case, I am of the considered view that the petitioners deserve grant of anticipatory bail.

Therefore, the petition is allowed and order dated 18.11.2021 granting interim bail to the petitioners is made absolute. However, the petitioners shall join the investigation as and when called upon to do so and shall abide by the conditions enumerated in Section 438 (2) of the Cr.P.C., failing which the protection of anticipatory bail order shall not be available to them.

03.03.2022
kavneet singh

(SANT PARKASH)
JUDGE

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