

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-47051-2022
Date of decision : 14.10.2022

Rohit and another

... Petitioners

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.B.S. Rana, Senior Advocate with
Mr.Nayandeep Rana, Advocate
for the petitioners.

Mr.Praveen Bhadu, AAG, Haryana.

Mr. Rakesh Nehra, Senior Advocate with
Mr.Sauhard Singh, Advocate and
Mr.Ankit Yadav, Advocate
for the complainant.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioners in FIR no.141 dated 01.04.2022 registered under Section 25 of the Arms Act and Sections 148, 149, 201, 302, 307, 341 IPC at Police Station Gadhpuri, District Palwal.

Learned senior counsel for the petitioners has submitted that in the present case, the petitioners were not named in the FIR and petitioner no.2 was not even named in the supplementary statement dated 01.04.2022 which had been recorded by the complainant. It is submitted that the petitioner no.2 is the resident of village Dhatir and even the complainant is the resident of same village and yet the complainant had not named him as

an accused. It is further submitted that as per the prosecution case, it is Anil, Raju and Yogesh who had taken out the weapons and had fired at the deceased and not the present petitioners. It is further submitted that there is contradiction in the prosecution version as given in the FIR which is dated 01.04.2022 and the one given in the supplementary statement of the complainant dated 01.04.2022, which had been recorded after the registration of the FIR, inasmuch as in the supplementary statement it has been mentioned that Anil, Raju and Yogesh had come on a scooty whereas the said fact had not been mentioned in the FIR.

On advance notice, Mr. Praveen Bhadu, AAG, Haryana, appears and accepts notice on behalf of the respondent-State and has submitted that he is fully prepare to argue the matter and assist this Court. Mr. Rakesh Nehra, Senior Advocate with Mr.Sauhard Singh, Advocate and Mr.Ankit Yadav, Advocate appears on behalf of the complainant. They have vehemently opposed the present petition for anticipatory bail and have submitted that the present case is a case of the gruesome murder of Ishwar, cousin brother of the complainant and as per the post-mortem report, the said deceased Ishwar had received six bullet injuries. It is further submitted that in the FIR itself it has been mentioned that in addition to Anil, Raju and Yogesh, there were 3-4 other persons also who had illegal weapons with them. It is stated that petitioner no.1 Rohit has been named in the supplementary statement of the complainant dated 01.04.2022, which had been recorded without any delay and had been recorded on the same day i.e., 01.04.2022 after the registration of the FIR and as per the said statement the said Rohit and other co-accused were having illegal weapons.

Further, it has been submitted that with respect to the occurrence, there is a

CCTV footage and petitioner no.1 Rohit can be easily seen in the said footage. It is further stated that as far as petitioner no.2 Krishan is concerned, his name has come in the disclosure statements of co-accused Anil and Yogesh and has also been nominated as a person who was involved in the incident in question. It is submitted that in case the complainant intended to falsely implicate petitioner no.2, then he would have been named in the FIR itself. It is further submitted that a special investigation team has been constituted in the present case and after due investigation it was found that both the present petitioners were involved in the incident and call details had also been procured as per which the petitioners were in constant touch with co-accused Yogesh and Anil at around the same time when the murder of Ishwar had taken place. It is argued that the weapons which the petitioners were armed with, are yet to be recovered from the petitioners. It is highlighted that the incident had taken place on 31.03.2022 and the FIR has been registered on 01.04.2022 and the name of petitioner no.1 was mentioned in the supplementary statement recorded on 01.04.2022 and the disclosure statement of co-accused was recorded on 05.04.2022, in which petitioner no.2 was named and there was a reward issued of Rs.5000/- to anyone who would give information with respect to the accused, including the present petitioner, and yet both the petitioners had managed to evade their arrest for a period of more than 5 months and had filed their bail application only on 07.09.2022, which was dismissed on 09.09.2022. It is further argued that there is no contradiction in the FIR and the supplementary statement dated 01.04.2022. It is also argued that the complainant does not personally know petitioner no.2.

This Court has heard learned counsel for the parties and has perused the record.

The present case relates to the gruesome murder of Ishwar, who was the cousin brother of the complainant, and who, as per the post-mortem report, had received six bullet injuries. A perusal of the FIR would show that it was the specific case of the complainant Krishan son of Ram Prasad that accused Anil, Raju, Yogesh and 3-4 other persons who were carrying illegal weapons had blocked the way and stopped the deceased as well as the complainant, the moment the deceased and the complainant reached near BSNL mobile tower before the cremation ground at about 6:30 PM. and thereafter they had been fired at by the accused persons. It is in the said incident that the deceased had received six bullet injuries on account of which he had died. From the above FIR, it is apparent that it was the specific case of the complainant that there were 3-4 other persons also present at the spot of occurrence in addition to Anil, Raju and Yogesh and on the same date, i.e. 01.04.2022, without any delay, the supplementary statement of the complainant Krishan was recorded as per which Rohit (petitioner no.1) was also specifically named and he, along with other accused persons, was stated to be carrying illegal arms. Even in the said statement, the factum that there were 2-3 other persons in addition to the specifically named persons i.e., Anil, Raju, Yogesh, Mahesh and Rohit, was again categorically mentioned. It is the case of the prosecution that as far as petitioner no.1 is concerned, he is clearly visible in the CCTV footage pertaining to the time of the incident of the commission of murder, thus, the supplementary statement of the complainant is in consonance with the material on record i.e., the CCTV footage. As far as petitioner no.2 is

concerned, he has been named by both the co-accused Anil and Yogesh. No malafide has been alleged against co-accused Anil and Yogesh for having named petitioner no.2 and further, in case the complainant wanted to falsely implicate petitioner no.2, he would have named petitioner no.2 in the FIR or in the supplementary statement dated 01.04.2022 itself. In the present case, a special investigation team was constituted and after due investigation, it was found that the present petitioners were also involved in the occurrence. It has been recorded in paragraph 8 of the order passed by the Additional Sessions Judge, Palwal, while rejecting the anticipatory bail application of the petitioners, that the call details record of the petitioners and accused Yogesh and Anil had been collected which showed that they were in constant touch with each other, around the time of the murder of Ishwar. The said aspect has not been rebutted before this Court. Petitioner no.1 was named in the supplementary statement dated 01.04.2022 and petitioner no.2 was implicated on the basis of disclosure statement of co-accused on 05.04.2022 and it is the case of the prosecution that even a reward of Rs.5000/- was announced for any person who would give information with respect to the petitioners and yet the petitioners had managed to evade their arrest for a period of more than 5 months, inasmuch as, they applied for anticipatory bail before the Additional Sessions Judge, Palwal on 07.09.2022 which was rejected on 09.09.2022. It is also the case of the prosecution that even the recovery of the weapons is to be effected. Since the crime committed in the present case is a heinous crime and the involvement of the petitioners is prima-facie established, thus, this Court is of the opinion that the petitioners do not deserve the concession of anticipatory bail and their custodial interrogation is necessary. As far as the

argument of learned senior counsel for the petitioners to the effect that there is contradiction in the FIR and the statement dated 01.04.2022, is concerned, this Court has carefully perused the FIR and the supplementary statement dated 01.04.2022 and has found that there is no such contradiction between the same and in the supplementary statement, certain details have been given which are in consonance with the allegations levelled in the FIR as it is the case of the prosecution as per the FIR that Anil, Raju, Yogesh and 3-4 companions who had illegal weapons, had blocked the passage of the deceased and the complainant and in the supplementary statement it has been specifically stated that the allegations levelled in the FIR are being reiterated and it has only been additionally stated that Anil, Raju and Yogesh had come on scooty no.HR30Q 7462 and they, along with Mahesh, Rohit and 2-3 other companions, were carrying illegal arms and had blocked the passage of the complainant and the deceased, and thus, the allegations levelled in the FIR and in the supplementary statement are in consonance with each other and there is no contradiction. The argument of learned senior counsel for the petitioners to the effect that petitioner no.2 and the complainant are of the same village, thus, the complainant should have named the present petitioner no.2, if not in the FIR, at least in the supplementary statement dated 01.04.2022, deserves to be rejected. In this respect, it is observed that as per the argument of learned senior counsel for the complainant, the complainant does not personally know petitioner no.2. Petitioner no.2 has been named by co-accused Anil and Yogesh and as has been stated hereinabove, no malafide has been alleged against the said co-accused for nominating petitioner no.2. Moreover, in case the complainant was to falsely implicate

petitioner no.2 then he would have named petitioner no.2 in the FIR or in the supplementary statement itself. The fact that there are call detail records showing constant communication between the petitioners and the main accused Yogesh and Anil around the time of the murder and the fact that their involvement has been prima facie found by the special investigation team, in addition to the above said facts, shows that the petitioners were prima facie involved in the present occurrence.

Keeping in view the above said facts and circumstances, the present petition for anticipatory bail does not deserve any merit and the same is accordingly, dismissed.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

October 14, 2022

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No