

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

CRM-M-57184-2022

Date of Decision:08.12.2022

Mandeep Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr.Liaqat Ali, Advocate for the petitioner

Mr.JP Ratra, Sr.DAG, Punjab

Mr. Mansur Ali, Advocate for complainant

...

Notice of motion.

Mr. J.P. Ratra, Sr.DAG, Punjab accepts notice of motion.

Mr.Mansur Ali, Advocate appears on behalf of the complainant and files

Memorandum of Appearance which is taken on record.

The petitioner has approached this Court by filing this petition under Section 438 of the Cr.P.C. for grant of anticipatory bail to him in FIR No.66 dated 22.8.2022 under Sections 323, 341, 506, 148, 149, 379-B (2) of the IPC registered at Police Station Jodhan, District Ludhiana Rural.

Learned counsel for the petitioner, *inter alia*, contends that the offence except offence under Section 379-B of the IPC is bailable. Ingredients of Section 379-B of the IPC are not attracted. The petitioner is already ready and willing to join the investigation. The petitioner has nothing to do with the offence. Nothing is to be recovered from the petitioner and as such no custodial interrogation is required.

On the contrary, learned counsel for the State assisted by the learned counsel for the complainant submits that FIR was lodged against the petitioner and 8 other unknown persons alleging that they all armed with weapons have beaten the complainant and also snatched Rs.55,000/- mobile and gold chain from the complainant. As per the MLR, the complainant received seven injuries in the occurrence and there is fracture on the right knee of the complainant. The opinion of the doctor regarding nature of injuries is yet to be obtained. Learned counsel also submits that the investigation is at initial stage and recovery is yet to be effected from the petitioner and as such his custodial interrogation is necessary.

Having heard learned counsel for the parties, *prima facie*, I am of the considered view that there are serious allegations against the petitioner and specific role has been attributed to him. The petitioner has been specifically named in the FIR. It is alleged that the petitioner alongwith other accused snatched Rs.55,000/- as also his mobile including khanda of gold 1/3/4 tolas. Complainant received seven injuries on his person. Injuries No.1, 2, 3, 4, 6 and 7 have been kept for X-ray and ortho opinion and Injury No.5 has been kept for surgeon opinion. There is also fracture on the right knee of the complainant. Moreover, investigation is still going on and, therefore, custodial interrogation of the petitioner is necessary for finding out the modus operandi of commission of offence. It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C. is somewhat extraordinary in character and it is to be exercised in exceptional cases. This view of mine finds support from the judgment of Hon'ble Supreme Court in **Madhya Pradesh Vs. Pradeep Sharma, (2014) 2 SCC 171.**

being devoid of any merit is dismissed. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

(ASHOK KUMAR VERMA)
JUDGE

8.12.2022
MFK

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>