

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

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CRM-M-4239-2023

Date of decision: 12.09.2023

Vipin Maan

..Petitioner

Versus

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. S.S. Nain, Advocate for the petitioner.

Mr. Baljinder Singh Virk, Sr. DAG, Haryana.

AMAN CHAUDHARY, J.

1. On 14.02.2023, this Court had passed the following order:-

“CRM-6949 of 2023

xxxxxx

CRM-M-4239 of 2023

This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.914 dated 22.11.2022 under Sections 148, 149, 323, 324, 506 IPC and lateron added Sections 325 and 307 IPC, registered at Police Station City Panipat.

The case of the prosecution is that on 21.11.2022, an information was received from Control Room, Panipat regarding admission of one Prince son of Sanjay in Artios Hospital, Panipat after having injured in a quarrel. On receipt of this information, ASI Dharmender alongwith other police official reached at the hospital and moved an application seeking opinion of the doctor regarding fitness of the injured, upon which concerned doctor opined injured Prince as unfit to make statement. Thereafter, on 22.11.2022, ASI Dharmender again visited the hospital and moved application seeking opinion of the doctor, upon which concerned doctor

opined injured Prince as fit to make a statement. Thereafter, injured Prince presented an application alleging therein that on 20.11.2022, at about 6.30 pm, he received a telephonic call from Mohit resident of Dadola and called him near the overpass of drain, upon which he alongwith his brother Sachin and friends Rohan and Sumit reached there. Then 15-20 boys came from their back side while carrying lathis, dandas, gandasi and others weapons and they attacked upon them from their back side with lathis, dandas and sword. The accused persons gave sword blows to him on his head and ear, due to which he fell down and then they caused injuries on his legs and hands. He sustained severe injuries. His brother also sustained injuries. However, his friends fled from the spot. On seeing the public coming on the spot and presuming him as dead as huge blood came out, the accused persons fled from the spot and while leaving, they extended threat with dire consequences. The complainant also mentioned the names of the accused persons as Vishal, Mohit, Robin, Aman, Vipin (petitioner) and he can identify the remaining persons, if produced before him. He also produced his MLR before the police. On the basis of this complaint, a case under Sections 148, 149, 323, 324 and 506 of IPC was registered. Investigation proceedings were initiated. Treatment record of injured Prince was obtained from the hospital and the opinion of the concerned doctor regarding nature of the injuries was also obtained. Thereafter, offences under Sections 325 and 307 of IPC were added. On 12.01.2023, co-accused Ritesh, Robin, Vishal were joined in the investigation and subsequently, were arrested in this case. During interrogation, they suffered disclosure statements admitting their involvement in the subject crime. Accused Robin and Ritesh got recovered dandas allegedly used in the subject crime and the same were taken into police custody. Investigation is still going on.

On issuance of notice of motion, respondent-State has filed reply by way of affidavit of Om Parkash, Dy. Superintendent of Police, Panipat, which is taken on record. In para 3 of the

reply it has been stated that *“his role in the crime is that he is specifically named in the FIR and he accompanied to other accused has caused serious injuries to the victim and his custodial interrogation is essential to recovery of the weapon used by him in the crime and further to know/arrest the accused persons involved with him in the crime.”*

Earlier, the petitioner filed application for anticipatory bail before the Court of learned Sessions Judge, Panipat, which has been dismissed vide order dated 16.01.2023 by recording following finding: -

“7. After considering the submissions of both the sides, this Court finds that the allegations against the present applicant are that he along with his accomplices formed an unlawful assembly and in prosecution of the common object of that assembly, caused simple as well as grievous injuries to the complainant-injured with blunt as well as sharp edged weapon with intention to cause his murder and also threatened him with dire consequences. No doubt, no injury has been attributed to him, however, his name has been specifically mentioned in the FIR. The allegations against the applicant are serious innature. After perusing the police file, the matter needs athorough probe to unearth the modus operandi and the specificroles played by the applicant and his co-accused. Deeper probewould not be possible if the applicant is clothed with pre-arrest bail.”

Learned counsel for the petitioner *inter alia* contends that the petitioner is innocent and has been falsely implicated in the present case with an ulterior motive. He further submits that no injury has been attributed to him and nothing is to be recovered from the petitioner. He further submits that it would be a matter of trial that which of the accused has given specific injury to the complainant/injured-Prince as five persons have been nominated as accused on the basis of statement of the complainant, who also stated that others can be identified. He further submits that initially the FIR was registered under Sections 148, 149, 323, 324 and 506 IPC and the petitioner had already

joined the investigation but later on Sections 325 and 307 IPC have been added by the police. He further submits that petitioner is not involved in any other case and he is ready and willing to join the investigation.

Per contra, learned State counsel opposes the prayer for grant of anticipatory bail to the petitioner stating that he has been specifically named by the complainant-injured and his custodial interrogation is very much required.

Adjourned to 15.5.2023.

In the meantime, petitioner shall join investigation before the Investigating Agency/Officer. In the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. He shall abide by the following conditions as envisaged under Section 438(2) Cr.P.C:-

- 1) That the petitioner shall make himself available for interrogation by a police officer as and when required to do so.
- 2) 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.
- 3) That the petitioner shall not leave India without prior permission of the court.”

2. Learned counsel submits that in pursuance of the aforementioned order, the petitioner has not only joined investigation but also fully cooperated with the investigating agency. He further submits that in case the investigating agency requires the petitioner to appear, he shall make himself available without demur.

3. Learned State counsel on instructions from SI Dhaamveer affirms the factum of joining the investigation by the petitioner and

cooperating with the investigating agency. He also submits that at this stage, the petitioner is not required for any custodial interrogation.

4. In view of the above and without expressing any opinion on the merits of the case, anticipatory bail petition filed by the petitioner is allowed and the order dated 14.02.2023 granting interim bail to him, is hereby made absolute, subject to compliance of conditions as specified under Section 438(2) Cr. P.C

5. However, it is made clear that if the petitioner fails to join and cooperate with the investigating agency as and when required, the State would be at liberty to move an application for cancellation of the present anticipatory bail granted to him.

12.09.2023
Ankur

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No