

213 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-8812-2023
Date of Decision: 15.03.2023

Dhirpal Singh

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Amitabh Tewari, Advocate
for the petitioner.

Mr. Amrik Narwal, DAG, Haryana
for the respondent/State.

Mr. Balkar Singh, Advocate
for the victims.

HARSH BUNGER J. (ORAL)

Petitioner has filed this petition under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner in case FIR No.358 dated 10.06.2018 (Annexure P-1), under Sections 148, 149, 323, 506 and 307 (added later on) of the Indian Penal Code, registered at Police Station Dadri Sadar, Charkhi Dadri.

Notice of motion was issued in this case, whereupon Mr. Amrik Narwal, DAG, Haryana appeared on behalf of the respondent/State and Mr. Balkar Singh, Advocate appeared and filed his Power of Attorney on behalf of the victims, and both the counsel contested the petition.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. It is further submitted that the petitioner was also found innocent during the investigation and was

not challaned, however, during the course of trial, he has been summoned as

an additional accused vide order dated 27.09.2022 (Annexure P-5) passed by the Court of Additional Sessions Judge, Charkhi Dadri, and even that order has been challenged before this Court, wherein notice of motion has already been issued vide order dated 19.01.2023 (Annexure P-6). It is stated that one of the co-accused (Axxx), who was a juvenile, has already been acquitted by the Court of Principal Magistrate, Juvenile Justice Board, Charkhi Dadri, vide judgment dated 01.04.2022 (Annexure P-7), on the ground that the prosecution failed to prove his guilt beyond reasonable doubt and it was also stated in the said judgment that the testimony of complainant-Jasbir Singh was not corroborated with the medical report. Learned counsel for the petitioner contends that the petitioner is on the similar footing with the aforesaid co-accused (Axxx) as the only evidence against the petitioner in the present case is the statement of complainant-Jasbir Singh, on the basis of which, the petitioner was summoned by the Court of Additional Sessions Judge, Charkhi Dadri. It is further stated that another co-accused, namely Sunil, has also been granted the concession of anticipatory bail by a co-ordinate Bench of this Court vide order dated 15.12.2018 (Annexure P-8). Learned counsel contends that the application for grant of anticipatory bail moved by the petitioner before the Court of Additional Sessions Judge, Charkhi Dadri has been wrongly declined, vide order dated 07.02.2023 (Annexure P-9). Learned counsel for the petitioner submits that custodial interrogation of the petitioner is not required and he is only to face trial in the present case. Learned counsel for the petitioner contends that the petitioner is ready and willing to join the proceedings, and accordingly, prayer for grant of anticipatory bail has been made.

Learned State counsel as well as learned counsel for the victims

opposes the bail plea of petitioner by submitting that the offences are serious in nature. However learned State counsel does not refute the facts that one of the co-accused (Axxx), who was a juvenile, already stands acquitted of the charges in this case by the Court of Principal Magistrate, Juvenile Justice Board, Charkhi Dadri and another co-accused, namely Sunil, has also been granted the concession of anticipatory bail by a co-ordinate Bench of this Court. Further, it is also not denied by learned State counsel that during the course of investigation, the petitioner was declared innocent and nothing is to be recovered from him in the present case.

I have heard learned counsel for the parties and perused the paper book with their able assistance.

From perusal of the paper book, it is manifested that in the present FIR (Annexure P-1), several persons, including petitioner-Dhirpal Singh, were named as accused, who were alleged to have inflicted injuries on the complainant. After the completion of investigation in this case, the challan (Annexure P-4) was presented before the Court of Additional Sessions Judge, Charkhi Dadri, however, the petitioner was not challaned therein. Subsequently, it appears that during the course of trial, an application under Section 319 of the Code of Criminal Procedure was filed by the complainant, for summoning the petitioner and other persons as additional accused, which was allowed by the Court of Additional Sessions Judge, Charkhi Dadri vide order dated 27.09.2022 (Annexure P-5). It is stated that aggrieved against the said order, the petitioner filed a revision petition bearing CRR No.2616 of 2022, titled as ***“Dhirpal Singh Vs. State of Haryana and another”*** before this Court, wherein notice of motion was issued vide order dated 19.01.2023 (Annexure P-6). It appears that after the

petitioner was summoned as an additional accused, he applied for anticipatory bail, which has been rejected by the Court of Additional Sessions Judge, Charkhi Dadri vide order dated 07.02.2023 (Annexure P-9).

Status report dated 01.03.2023 was filed by learned State counsel on the last date of hearing (02.03.2023). Relevant extract thereof reads as under:-

“4. That during the course of investigation, verification of the case was conducted by DSP/HQ, Charkhi Dadri and during verification rest of the named accused namely Dhir Pal Sarpanch (Present Petitioner), Sukhwinder son of Rama Singh, Vatan son of Ram Singh, Hardeep son of Attar, Naresh son of Om Parkash, Ram Kumar son of Bharat Singh, Chander son of Ramji Lal, Devender son of Ram Sarup, Vikaramjit son of Kartar residents of Paintawas Kalan were found innocent in the case. Accordingly, sections 148/149 IPC were deleted in the case and section 34 IPC was added. After completion of investigation, supplementary challan against accused Sunil was submitted in the learned Court on 12.09.2019. Charges have been framed against the accused vide order dated 03.03.2021 and the case is now fixed for 17.03.2023 for appearance.

5. That during the course of trial, complainant filed an application under section 319 Cr.P.C. for summoning Dhirpal son of Ishwar (Present Petitioner), Sukhinder son of Ram Singh, Vatan son of Ram Singh, Hardeep son of Attar Singh, Naresh son of Om Parkash, Ram Kumar son of Bharat Singh, Chander son of Ramji Lal, Devender son of Ram Swaroop and Vikram son of Kartar, all residents of village Paintawas Kalan, District Charkhi Dadri as additional accused in the case. The learned Court of Purushottam Kumar, Additional Sessions Judge, Charkhi Dadri vide detailed order dated 27.09.2022 summoned the petitioner only as additional accused in the case.

6. That during the course of investigation, petitioner was joined in investigation and was declared innocent. Hence, nothing is to be recovered from the petitioner in the present case. However, the petitioner has previously remained involved in case FIR No.166 dated 02.09.2004, under Sections 323/325/34 IPC, PS Sadar Dadri and FIR No.354 dated 27.09.2013, under Sections 68 Excise Act and 160, 186, 323, 332, 352, 506 IPC, PS Sadar Dadri and has been acquitted in both these cases.”

Keeping in view the aforementioned facts and circumstances as well as status report dated 01.03.2023, filed by learned State counsel and without expressing any opinion on the merits of case, this Court is of the considered view that the petitioner is not required for custodial interrogation nor anything is to be recovered from him. The petitioner was found innocent during the course of investigation. Thereafter, he has been summoned under Section 319 of the Code of Criminal Procedure and he is only to face trial, however, the completion of trial will take long time and no useful will be served by sending the petitioner in custody. Accordingly, this Court finds it to be a fit case to grant the benefit of anticipatory bail to the petitioner. The petitioner is directed to appear before the trial Court within a period of three weeks from today and upon doing so, the petitioner shall be released on bail on his furnishing adequate bail bonds and surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Present petition is accordingly disposed of.

All pending application(s), if any, shall also stand closed.

15.03.2023

Apurva

(HARSH BUNGER)

JUDGE

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| 1. Whether speaking/reasoned : | Yes/No |
| 2. Whether reportable : | Yes/No |