

CRM-M-12347 of 2023

2023:PHHC:052252

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

CRM-M-12347 of 2023

Date of decision: 13.04.2023

Mohit Rawal

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

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

Ms. Gaganpreet Kaur, AAG, Haryana.

Mr. Johan Kumar, Advocate,
for the complainant.

NAMIT KUMAR, J.

1. 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 later on added Sections 325 and 307 IPC, registered at Police Station City Panipat.

2. 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

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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 petitioner-Mohit resident of Dadola, who 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 swords. 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, petitioner-Mohit, Robin, Aman, Vipin 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

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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.

3. Learned counsel for the petitioner has contended that the petitioner is innocent and has been falsely implicated in the present case by the complainant with ulterior motive. He further submitted that it was a free fight between both the parties and both the sides suffered injuries. He further submitted that no specific role has been attributed to the petitioner nor any injury has been attributed to him. He further submitted that nothing is to be recovered from the petitioner and he is ready and willing to join the investigation.

4. Learned State counsel, assisted by learned counsel for the complainant, has opposed the prayer for grant of anticipatory bail to the petitioner by submitting that petitioner is the main conspirator and there is specific allegation against him that he attacked the complainant with sword and caused injuries to him. Therefore, his custodial interrogation is necessary. Learned State counsel has filed reply dated 11.04.2023 by way of affidavit of Dharamvir Singh, Deputy

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Superintendent of Police, Head Quarters, Panipat, wherein it has been mentioned as under: -

“ii. That after registration of the FIR, the investigation was carried out by ASI Dharmender Singh No.33, who has reached at the place of crime on 22/11/2022 and enquired the matter from persons found present there and they have also stated about the material facts of the case reiterating therein the allegations levelled in the FIR.

iii. That the notices u/s 41A Cr.P.C. were served upon accused including the petitioner as well as their family members were served with the direction to produce the accused to conclude the investigation of the case at the earliest and the call details/CDR of the relevant mobile numbers of the connected persons were obtained for evidence.

iv. That on 30/11/2022, the opinion about the injuries suffered by the complainant was obtained from Artois Hospital Panipat wherein the injuries were described grievous in nature (Annexure R-1) and after collecting the relevant treatment summary (Annexure R-2) and MLR No.ST/08/PNP/2022 Dt.22/11/2022 (Annexure R-3) the opinion of the Medical Officer of Civil Hospital Panipat was sought wherein it has been opined (Annexure R-4) on 06/12/2022 that injuries suffered by complainant is Grievous and Dangerous to Life. As per the nature of crime, Section 307, 325 of I.P.C. were added on 06/12/2022 in case.

v. That on 12/01/2023, the co-accused Ritesh S/o Dinesh, Robin S/o Kuldeep and Vishal S/o Ramesh were arrested by SI Dharambir Singh No.100 and on interrogation they voluntarily suffered their separate disclosure statements admitting therein manner in which

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they have committed this crime with common intention of the petitioner etc. and in pursuance of their admission they have got demarcated the place of crime and recovery of wooden-sticks used in crime was effected by the accused Ritesh and Robin.

vi. That the complainant/injured Prince and injured Sachin S/o Satish have joined the investigation on 16/03/2023 and voluntarily recorded their separate statements u/s 161 Cr.P.C. wherein it has been clearly mentioned that the petitioner has attacked with sword on left hand of Sachin due to which his bone of finger has been chopped-off and the said injury has been opined as sharp and grievous by Medical Officer of Civil Hospital Panipat vide his opinion dated 23/03/2023 (Annexure R-7). As per the nature of crime, Section 326 of I.P.C. was added in the case on 23/03/2023.”

5. I have heard learned counsel for the parties and perused the record.

6. Perusal of record *prima facie* shows that petitioner is the main accused who with dishonest intention called the complainant and along with co-accused caused a murderous attack on him. He gave sword blow on the left hand of the complainant as a result of which his finger has been chopped of and the said injury has been opined as sharp and grievous. Therefore, offence under Section 326 IPC has been added in the FIR. Moreover, petitioner is also involved in one more case of similar nature bearing FIR No.349 of 2020 under Sections 148, 149, 323, 427, 506 IPC, registered at Police Station City Panipat, which fact has been concealed by him in the petition. It is a well-settled proposition of law that a person who does not approach the Court with

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clean hands and played fraud with the Court, is not entitled for any relief. Reference in this regard can be made to the judgments in ***Dalip Singh v. State of U.P. and others - JT 2009 (15) SC 201: (2010) 2 SCC 114*** and ***Amar Singh v. Union of India and others, WP(C) No.39/06 decided on 11.05.2011.***

7. As per law laid down by the Hon'ble Supreme Court in ***State of Madhya Pradesh v. Pradeep Sharma, (2014) 2 Supreme Court Cases 171***, power exercisable under Section 438 Cr.P.C. is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his/her liberty.

8. In ***Bal Krishan Fauzdar v. State of Haryana 2018 (1) RCR Criminal 789***, it is held by a Co-ordinate Bench of this Court in para No. 8 as under: -

“.....It is well settled that custodial interrogation is more elicitation oriented since a person, who is couched in comparative safety of pre-arrest bail would certainly not disclose all the facts within his knowledge which would be inculpatory for him. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called for.”

9. There are specific allegations against the petitioner that he telephonically called the complainant and along with co-accused

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caused injuries to him, which were declared dangerous to life.
Therefore, he does not deserve the concession of anticipatory bail and
his custodial interrogation is necessary.

10. In view of the above, present petition is dismissed.

13.04.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No