

CRM-M-16295 of 2023 (O&M)

2023:PHHC:054012

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

CRM-M-16295 of 2023 (O&M)

Date of decision: 18.04.2023

Rohit Rana

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. N.P.S. Mann, Advocate,
for the petitioner.

Mr. Adhiraj Singh, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

CRM-15796 of 2023

1. This application has been filed by the applicant-petitioner under Section 482 Cr.P.C. for placing on record Medico Legal Report dated 18.01.2023 as Annexure P-5, Main report of MLR dated 27.01.2023 as Annexure P-6 and X-ray report opinion dated 06.03.2023 as Annexure P-7.

2. In view of the averments made in the application, same is allowed. Annexures P-5 and P-7 are taken on record subject to all just exceptions.

CRM-M-16295 of 2023

1. This second petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.3 dated 19.01.2023 under Sections 365, 341, 324, 323, 427, 506, 148, 149 IPC

CRM-M-16295 of 2023 (O&M)

2023:PHHC:054012

(Section 326 IPC added later on), registered at Police Station Daba, District Police Commissionerate Ludhiana.

2. Brief facts of the case are that present FIR has been got registered by complainant Harpreet Singh alleging that on 18.01.2023 at about 6:30 p.m. complainant called his friend Shubh on his mobile phone who called him to meet him. At about 8.00-8.30 p.m. when the complainant was on his way to meet his friend on Aactiva Scooter, Rana, Mohit, petitioner-Rohit, Gaggi, Aman, Lot along with 4-5 other persons armed with deadly weapons like *Kirpans*, *Daat* and *Khanda* came there on their yellow coloured Jeep and they rammed their jeep in the Aactiva Scooter of the complainant, due to which the Scooter broke down. It is further alleged that accused persons alighted from their jeep and started beating the complainant. Rana attacked with his *khanda* upon the head of the complainant. Mohit attacked with his iron *daat* on his left arm many times. **Petitioner-Rohit, Gaggi and Aman attacked from the reverse side of the iron *daat* and sword on the back and arm of the complainant.** Lot with his iron pipe with retched fitted attacked upon him and made him to sit in their jeep and took him to street No. 16 and **snatched his two mobile phones one Redmi and OPPO and one gold chain worn in his neck.** In the meantime, the father of the complainant also came at the spot and the assailants ran away from the spot with their weapons with their jeep and while running away they left his Aactiva Scooter. Father of the complainant got him admitted to the Civil Hospital, Ludhiana. Upon these

CRM-M-16295 of 2023 (O&M)

2023:PHHC:054012

allegations the present FIR was registered against the petitioner and other co-accused.

3. Learned counsel for the petitioner has submitted that petitioner is innocent and has been falsely implicated in the present case. He further submitted that no specific injury has been attributed to the petitioner. He further submitted that petitioner was not present at the spot. He further submitted that petitioner is not involved in any other case and no recovery is to be effected from the petitioner and he is ready and willing to join the investigation.

4. Per contra, learned State counsel has opposed the prayer for grant of anticipatory bail to the petitioner by submitting that there are specific allegations against the petitioner, therefore, his custodial interrogation is necessary.

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

6. Perusal of FIR shows that petitioner has been specifically named that he along with co-accused caused injuries on the person of the complainant and snatched his two mobile phones.

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

CRM-M-16295 of 2023 (O&M)

2023:PHHC:054012

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. Reliance can be placed upon the Hon’ble Supreme Court dictum passed in ***Prem Shankar Prasad v. The State of Bihar and another, 2021(4) RCR (CrL.) 598*** and ***Anil Kumar Singh v. High Court of Judicature at Patna through its Registrar General and another, (2020)19 Supreme Court Cases 364*** whereby the Hon’ble Apex Court had denied the concession of anticipatory bail in view of the gravity of offences and the conduct of the petitioner.

10. The allegations are serious in nature. Custodial interrogation of the petitioner may provide information leading to discovery of material facts. Curtailing of his freedom is necessary in order to enable the investigation to proceed without hindrance and to protect witnesses.

CRM-M-16295 of 2023 (O&M)

2023:PHHC:054012

11. In view of the facts and circumstances of the case, I am of the considered view that petitioner cannot prima facie be said to have been falsely enroped in the crime and his custodial interrogation is necessary in the case and that petitioner is likely to abscond and misuse his liberty and does not deserve grant of anticipatory bail.
12. In view of the above, the petition is dismissed.
13. However, nothing observed hereinabove shall be construed as an expression of opinion on the merits of the case.

18.04.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No