

CRM-M-20345-2023

-1-

202

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-20345-2023
Date of Decision: 02.06.2023

Gaurav Kumar

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Pankaj Bali, Advocate
for the petitioner.

Mr. Rajiv Goel, DAG, Haryana.

HARSH BUNGER J. (ORAL)

Petitioner has filed this petition under Section 438 of the Code of Criminal Procedure, seeking anticipatory bail in case FIR No.105 dated 12.02.2023, registered under Sections 323, 324, 326, 506 read with Section 34 of the Indian Penal Code (for short 'the IPC') at Police Station Assandh, Karnal (Annexure P-1)

2. Upon issuance of notice in this case, status report by way of an affidavit of Sandeep Singh, HPS, Deputy Superintendent of Police, Assandh, District Karnal, on behalf of respondent-State of Haryana, has been filed in the Court today, which is taken on record, subject to all just exceptions.

3. Briefly, the above-said case FIR was registered on the

CRM-M-20345-2023

-2-

complaint of one Naresh Kumar against Ripu @ Gaurav Kumar s/o Ramesh (petitioner) and Prince @ Kalu s/o Anil @ Ganga, wherein it is alleged that in the night of 09.02.2023, Surender (brother of the complainant) was near the liquor vend at Salwan Chowk, bye-pass and the abovesaid accused persons also came there and started abusing Surender (brother of the complainant), when Surender opposed them, the accused persons started giving beatings with a sharp weapon on the neck of Surender (brother of the complainant); whereupon Surender brought forward his hand to save himself, then his hand was cut off. Thereafter, Surender fled away from the spot and hid himself in the liquor vend, consequently, the accused persons went behind him and threatened to kill the brother of the complainant, in the future. It is stated that the brother of complainant, Surender was shifted to the hospital by the passers-by and made a phone call to the complainant. It is further stated that from Assandh Hospital, Surender was referred to Kalpana Chawla Hospital, then Kalpana Chawla Hospital referred him to PGI, Chandigarh, where the doctor disclosed that his hand could not be saved. Since his condition was serious, he was taken to a private hospital, where his operation was conducted and after regaining consciousness, Surender narrated the whole incident to the complainant. Accordingly, the afore-said case FIR was registered.

4. Apprehending arrest in this case, the present petitioner approached the Court of Additional Sessions Judge, Karnal, seeking anticipatory bail; however, the same was rejected vide order dated 22.03.2023 (Annexure P-3). Accordingly, the petitioner has filed the instant petition before this Court seeking anticipatory bail.

CRM-M-20345-2023

-3-

5. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. It is submitted that there is an un-explained delay of three days in lodging the FIR as the occurrence is stated to be of 09.02.2023 and the FIR was registered only on 12.02.2023. Learned counsel for the petitioner submits that he was not present at the alleged place of occurrence, rather he left the place prior to the incident and no specific injury has been attributed to the petitioner. It is further submitted by learned counsel for the petitioner that a CCTV recording has also been taken in custody by the Investigating Officer in which the petitioner was not visible. Learned counsel for the petitioners submits that the anticipatory bail application moved by the petitioner, has wrongly been rejected vide order dated 22.03.2023 (Annexure P-3) by the Court of Additional Sessions Judge, Karnal. It is also submitted that the petitioner is ready and willing to join investigation as and when required by the Investigating Agency or as directed by this Court or the trial Court.

6. Per contra, learned State counsel has opposed the plea of bail sought by the petitioner on account of seriousness and gravity of the offence. While referring to the status report, learned State counsel has submitted that the petitioner is the main perpetrator of the crime and the petitioner along with co-accused (Prince @ Kalu) assaulted the victim with a knife (butcher cutter) aiming at the neck of Surender but it caused a grievous injury to his hand which required blood transformation and surgery to the victim. It is submitted that the custodial interrogation of the petitioner is required for proper investigation and to recover weapon used in the offence. Accordingly, prayer for dismissal of the instant petition is made.

CRM-M-20345-2023

-4-

7. I have heard learned counsel for the parties and also gone through the paper book as well as the status report filed on behalf of the respondent-State of Haryana.

8. Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from custodial interrogation.

9. The petitioner has been specifically named in the FIR and specific role has been attributed to him that he caused grievous injury with sharp edged weapon to the brother of the complainant. The victim (brother of the complainant) has suffered deep injury on his hand which is stated to have required surgery and blood transformation to victim.

10. I have gone through the FIR and am of the considered opinion that no case for grant of anticipatory bail to the petitioner is made out.

11. Custodial interrogation of the petitioner is definitely required for complete and effective investigation so as to find out how the incident was planned and executed. Recovery of weapon used in the incident is also to be effected. 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.

12. In ***State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268***, Hon'ble the Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of

suspected person is of tremendous advantage in getting useful informations.

13. In *Jai Prakash Singh Versus State of Bihar and another etc., 2012(2) RCR (Criminal) 251*, Hon'ble the Apex Court observed that neither anticipatory bail nor regular bail can be granted as a matter of rule and the anticipatory bail being an extraordinary privilege should be granted only in exceptional cases.

14. Keeping in view the above facts and circumstances, the petitioner in the present case is not entitled for grant of anticipatory bail as no exceptional circumstance has been brought forth in that regard. Accordingly, the present petition under Section 438 Cr.P.C. seeking grant of anticipatory bail to the petitioner in case FIR No.105 dated 12.02.2023, registered under Sections 323, 324, 326, 506 read with Section 34 of the Indian Penal Code (for short 'the IPC') at Police Station Assandh, Karnal; is dismissed.

15. Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

02.06.2023
Himani

(HARSH BUNGER)
JUDGE

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