

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22715-2022
Reserved on: 19.04.2023
Pronounced on: 15.05.2023

Randhir Singh @ Dheera ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Charanjit Singh, Advocate for the petitioner.

Ms. Navreet K. Barnala, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
30	11.03.2022	City Rampura, District Bathinda	324, 323, 452, 148, 149, 506 IPC and offence under Section 307 IPC added vide DDR No.31 dated 04.04.2022

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. In paragraph 12 of the bail petition, the accused declares that he has no criminal antecedents.
3. The allegations are that the petitioner alongwith other accused, armed with kirpans, dandas, iron rods attacked the inmates by entering into the complainant’s house, and brutally assaulted them.
4. Ld. Counsel for the petitioner contends that the custodial investigation would serve no purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family. Interim protection granted to petitioner vide order dated 30.05.2022 is continuing till date.
5. Ld. counsel representing the State opposes bail.

REASONING:

6. The defence plea as set up in paragraphs 3 & 4 are as follows:

“3. That the true facts of this case are that in the mid night of 09/10.03.2022 at about 12:30 AM in the neighbor the marriage function was took place of Jagsir Singh s/o Gora Singh and on the occurrence D.J. was running

and Gurmeet Singh alias Saida, Sanny Singh s/o Gurmeet Singh alias Saida, Simarjit Kaur w/o Gurmeet Singh alias Saida, Kajal Kaur w/o Gurmeet Singh alias Saida, Santokh Singh s/o Veer Singh, Gurwinder Singh alias Bhindi s/o Gora Singh, Kulwinder Kaur d/o Gora Singh, Kalu Kaur d/o Gora Singh, Jagseer Singh s/o Gora Singh all residents of village Mehraj, Kothe Maha Singh (Vadian), Tehsil Phul, District Bathinda was done dance and for the running song a quarrel was made between them and the petitioners had gone for just to release them from other, but they made quarrel with the petitioners, but the petitioners were tried to linger the matter one pretext or the other, but the abovesaid persons made. a call and called some unknown persons, who armed with deadly weapons, who came on the occurrence and made openly firing, whole the occurrence was recorded in the CCTV Cameras, which can produce by the petitioners. It is further stated that brother of petitioner no. 1 & father of the petitioner no. 2 i.e. Randhir Singh is the active member of BSP as Suba Secretary and that persons belongs to another political party, so they attacked upon us, who five fired and said by raising lalkaras loud that they will take rest after kill to brother of petitioner no. 1 & father of the petitioner no. 2 i.e. Randhir Singh alias Dheera, but the brother of petitioner no. 1 & father of the petitioner no. 2 Randhir Singh was not present at the spot, due to he was remained save, during this incident when mob of the many peoples ran back of the above said persons then they ran away from the apot and made injuries to other and they succeed to ran away just to. take advantage of the dark.

4. That the petitioners had made multiple calls to the police at police help line No. 100, SHO Rampura Phul M. No. 7508018111 and police station phone no. 7508018140 at the time of occurrence and ASI Charanjit Singh came on the spot and made peace on single time and on the next day in the morning the police took the action against the petitioners at the instance the abovesaid persons and has arrested my brother Gurtej Singh and nephew Jagmeet Singh alias Roak and no action has been taken by the police against the actual accused persons. ASI Amrik Singh of P.S. City Rampura, came to the house of the petitioners in their absence and threatened to the family members of the petitioners that father of the brother of petitioner no. 1 & petitioner no. 2 i.e. Randhir Singh caught hold the cotton on his back and who persons already arrested by them, the water neem remained boil for their treatment.”

7. Given the counter versions, the pre-trial incarceration might result in irreversible loss of reputation, which cannot be undone. Moreover, the petitioner are first offenders, and one of the relevant factors would be to provide an opportunity to course-correct. Even a prima facie perusal of paragraph 6 & 7 of the bail petition needs consideration for bail.

8. Thus, there would be no justification to keep this bail pending waiting for the proper investigation. The petitioner was granted interim protection, and during the interregnum, there is no allegation that he had hampered the investigation, or despite being called to join the investigation, he did not appear before the investigator. Given the above, there would be no justification to discontinue the interim protection, and the same is made absolute subject to compliance of further more conditions:-

9. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall surrender all weapons, firearms, ammunition, if any, along with the arms license to the concerned authority within fifteen days from today and inform the Investigator about the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and take it back in case of acquittal in this case, provided otherwise permissible in the concerned rules.

10. Till the completion of the trial, the petitioner shall not contact, call, text, message, remark, stare, stalk, make any gestures or express any unusual or inappropriate, verbal or otherwise objectionable behavior towards the victim and victim's family, either physically, or through phone call or any other social media, through any other mode, nor shall unnecessarily roam around the victim's home.

11. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall not enter the property, workplace, and the residence of the victim and shall also not enter within a radius of one kilometer from the victim's home till the recording of the statements of all non-official and informal witnesses in the trial. This Court is imposing this condition to rule out any attempt by the accused to incapacitate, influence, or cause any discomfort to the victim. Reference be made to Vikram Singh v Central Bureau of Investigation, 2018 All SCR (CrL.) 458; and Aparna Bhatt v. State of Madhya Pradesh, 2021 SCC Online SC 230.

12. In return for the protection from incarceration, the Court believes that the accused shall also reciprocate through desirable behavior. **It is clarified that in case the appellant do not mend his ways and repeats the offence or indulge in criminal behaviour, then in all future matters, the concerned courts shall keep it as a factor that this court had afforded a final opportunity to the appellant to reform and live a normal life but did not mend his ways.**

13. The conditions mentioned above imposed by this court are to endeavour that the accused does not repeat the offence and to ensure the safety of the witnesses, victim, and their families. In Sushila Aggarwal, (2020) 5 SCC 1, Para 92, the Constitutional Bench held that unusually, subject to the evidence produced, the Courts can impose restrictive conditions. In Sumit Mehta v. State of N.C.T. of Delhi, (2013) 15 SCC 570, Para 11, Supreme Court holds that while exercising power Under Section 438 of the Code, the Court is duty-bound to strike a balance between the individual's right to personal freedom and the right of investigation of the police. While exercising utmost restraint, the Court can impose conditions countenancing its object as permissible under the law to ensure an uninterrupted and unhampered investigation. In Mohammed Zubair v. State of NCT of Delhi, Writ Petition (Criminal) No 279 of 2022, Para 29, decided on July

20, 2022, A Three-Judge bench of Hon’ble Supreme Court holds that “The bail conditions imposed by the Court must not only have a nexus to the purpose that they seek to serve but must also be proportional to the purpose of imposing them. The courts while imposing bail conditions must balance the liberty of the accused and the necessity of a fair trial. While doing so, conditions that would result in the deprivation of rights and liberties must be eschewed.”

Petition allowed in aforesaid terms. Interim order dated 30.05.2022 is made absolute subject to strict compliance of all terms and conditions. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

15.05.2023
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Whether speaking/reasoned: Yes
Whether reportable: No.