

CRM-M-21781 of 2023

2023:PHHC:066826

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

CRM-M-21781 of 2023

Date of decision: 09.05.2023

Lovepreet Singh @ Mani

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Vikasdeep Singh, Advocate,
for the petitioner.

Mr. Adhiraj Singh, AAG, Punjab.

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.46 dated 13.03.2023 under Sections 379-B/308/323/341/148/149/506 IPC, registered at Police Station Sultanpur Lodhi, District Kapurthala.

2. Present FIR has been registered on the basis of statement of complainant Deepak Kumar son of late Nirmal Singh stating that he is Clerk at the shop of Raju Dhir. On 09.03.2023 around 10.30 p.m., he was returning back to his home on his motorcycle CT100 alongwith his friends Gaurav and Akash. When they reached near Arya Samaj Chowk, then they saw that Raman Kumar @ Bablu armed with pistol, Lovepreet @ Mani (present petitioner) armed with *khanda*, Laddi armed with baseball, Sukhwinder Singh @ Mindi bare handed alongwith 5/6 unknown persons armed with baseballs, rods, *datars* etc.

were already standing there. Then the abovesaid persons encircled them

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and then Bablu caught hold of his (complainant) neck and slapped him. Then Lovepreet @ Mani (petitioner) inflicted his *dasti datar* blow upon him with intention to kill him and the blow fell on his head. Then Raman Kumar @ Bablu took *datar* from an unknown person and inflicted the injury at his back. Then Laddi inflicted his *dasti* baseball blow upon him with intention to kill him which fell on his head. Then Shindi caught hold of his arms and threw him on the ground. While he was lying on the ground, then Raman Kumar @ Bablu snatched his I-Phone 14, Rs.65,700/-, one golden ring weighing 04 grams, one silver chain weighing 7.8 tolas from him. Then unknown persons also gave beatings to him. On this, they raised *raula* 'Mar-Ditta- Mar-Ditta'. Then his friends Gaurav and Akash got rescued him from the hands of the 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 there is unexplained delay of four days in lodging the FIR as the alleged occurrence took place on 09.03.2023 whereas FIR was got registered on 13.03.2023. He further submitted that petitioner is not involved in any other case 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. He has placed on record disclosure

statement of other accused, namely, Aman who admits that petitioner

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along with other accused committed the crime in connivance with each other.

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 head of the complainant with his *dasti datar* with intention to kill him and snatched his mobile phone, Rs.65,700/-, one gold ring and one silver chain.

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

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*affecting the investigation being carried out adversely,
which is not called for.”*

9. 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.

10. 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.

11. In view of the above, the petition is dismissed.

12. However, nothing observed hereinabove shall be construed as an expression of opinion on the merits of the case.

09.05.2023

R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No