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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****207**

CRM-M-22768-2023

Date of decision: 22.08.2023

Safudeen

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Naveen Kashyap, Advocate, for the petitioner.

Mr. Baljinder Singh Virk, Sr. DAG, Haryana.

AMAN CHAUDHARY. J.

1. On 30.05.2023, this Court had passed the following order:-

The instant petition under Section 438 Cr.P.C., has been filed for grant of anticipatory bail to the petitioner in FIR No.91, dated 16.02.2023, under Sections 148, 149, 201, 323, 308 and 506 of IPC, 1860, registered at Police Station Old Industrial, District Panipat (Annexure P-1).

Learned counsel for the petitioner despite several opportunities failed to place on record the medico legal report and rather prays for calling upon the same to the State of Haryana being represented by Mr. Gagandeep Singh Chhina, AAG, Haryana.

The contention raised by learned counsel for the petitioner is that the petitioner was not named in the FIR and has been falsely implicated without attributing any specific role to him. The version narrated in the FIR on behalf of the complainant, as has been pointed out by learned counsel for the petitioner is that there is a delay of one day in registration of the same from the date of occurrence out of alleged altercation, which took place on 15.02.2023 at about 5.30 P.M. on account of objecting to play DJ at the house of complainant and 12 to 13 persons in a group gave beatings to him, who was rescued by the passers by.

Learned State counsel on instructions from SI Prem Singh informs the Court that even, thereafter, once the complainant was rescued and taken to hospital for treatment, the petitioner along with other co-accused persons entered the

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hospital and gave further beatings and the petitioner was actually found to have given injuries using the stick, who has been specifically named in the FIR as Safru. The injuries, as have been pointed out by learned State counsel suffered by the complainant are including a fracture on the skull apart from injuries with blunt weapon, which has been used by the petitioner and the same is to be recovered. It has been also pointed out that the investigation is still pending due to the petitioner, who is evading the arrest, whose custodial interrogation is required to reach to a logical conclusion.

Be that as it may, since the FIR and perusal of the same does not reflect any specific role to any of the accused out of 12 to 13 persons including the present petitioner, wherein co-accused Rohit @ Bichhi has been granted the concession of bail by the trial Court vide order dated 15.03.2023 (Annexure P-2). Though a valiant attempt has been made on the part of the State counsel, but he is unable to refer to any connecting evidence that the petitioner has been attributed a blow with stick on the head of the complainant, which caused a fracture and in the light of the same, it cannot be concluded merely on the basis of assumption that if the petitioner was carrying a stick and has given the blow on head particularly in a situation, where 12 to 13 boys were there and attacked to the complainant. This Court also cannot loose sight of the fact that 6 co-accused persons have been granted the concession of bail either by trial Court or by this Court, as has been stated by learned State counsel and in that case, if the petitioner joins the investigation, it will only facilitate furtherance of inquiry into the case, which is still pending due to non-joining of the petitioner herein.

Notice of motion.

In the meantime, the petitioner is directed to be released on interim bail in case he joins the investigation on furnishing personal surety/security bonds to the satisfaction of Arresting Officer/Investigating Officer. The petitioner will also come present as and when called for and cooperate in investigation and shall abide by the conditions as envisaged under Section 438 (2) Cr.P.C.

Adjourned to 22.08.2023.

2. Learned counsel for the petitioner submits that in pursuance of the aforesaid order, the petitioner has not only joined investigation but also fully cooperated with the investigating agency. He further submits that in case the investigating agency requires the petitioner to appear, he shall make himself available without demur.

3. Learned State counsel affirms the factum of joining the investigation by the petitioner and cooperating with the investigating agency. He also submits that at this stage, the petitioner is not required for further custodial interrogation.

4. In view of the above and without expressing any opinion on the merits of the case, anticipatory bail petition filed by the petitioner is allowed and the order dated 30.05.2023 granting interim bail to him, is hereby made absolute, subject to compliance of conditions as specified under Section 438(2) Cr. P.C
5. However, it is made clear that if the petitioner fails to join and cooperate with the investigating agency as and when required, the State would be at liberty to move an application for cancellation of the present anticipatory bail granted to him.

(AMAN CHAUDHARY)
JUDGE

22.08.2023
Ankur

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No