

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

101

CRM-M-23483-2023

Date of Decision : 10.05.2023

Ranjan and another

.....Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present : Mr. Manjeet Singh, Advocate for the petitioners.

ASHOK KUMAR VERMA, J. (ORAL)

1. The petitioners have filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.98 dated 11.03.2023 registered under Sections 148, 149, 323 and 506 of the Indian Penal Code, 1860 (to which Sections 326, 307 and 120-B of the IPC were added later on) at Police Station Bawani Khera, District Bhiwani.

2. The above-said FIR was registered on the statement made by complainant-Sandeep @ Meetu stating that on 06.03.2013, Ram Kishan and his sons namely Ranjan, Suresh, Sonu and his family members had picked up a quarrel with Pawan (cousin of the complainant). When he went to his home, they all assaulted him besides giving injuries to Pawan and his family members after entering his house. A criminal case was got registered against Ram Kishan and others. On 10.03.2023 at about 08:00 p.m. when he was sitting in front of his shop, Ranjan, Suresh, Sonu, Vinod along with 2-3 other persons,

armed with dandas and iron rods, came there. They put red chilly powder in his eyes and gave injuries on his eyes, hand and other parts of his body. They also snatched Rs.50,000/- from his pocket besides extending threats to kill him.

3. Learned counsel for the petitioners submits that the petitioners have been falsely implicated in the present case. No specific injuries have been attributed to the petitioners. Earlier, the petitioners were arrested on 18.03.2023 and they were released on regular bail by the trial Court vide order dated 24.03.2023. Thereafter, the complainant-injured has procured the medical opinion based on which Section 326 and 307 of the IPC have been added during investigation despite the fact that none of the alleged injuries are either grievous. The Investigating Agency after adding Sections 326 and 307 of the IPC intended to arrest the petitioners. Nothing is to be recovered from the petitioners and their custodial interrogation is not required in the case. Therefore, the present petition may be allowed.

4. Notice of motion.

5. On the asking of the Court, Mr. Munish Sharma, D.A.G., Haryana, who is present in the Court, has accepted notice on behalf of the respondent-State and vehemently opposed the present petition on the grounds that the petitioners have actively participated in the commission of offence and they along with other co-accused have caused various injuries on the person of the complainant. For through investigation of

the case custodial interrogation of the petitioners is required. Therefore, the present petition may be dismissed.

6. Having heard learned counsel for the parties, I am of the view that the allegations against the petitioners are serious in nature. As per the medical report of complainant/injured, fractures were found in the frontal bone and zygomatic arch. There was complete collapse of right eye ball shaped deformed.

7. Furthermore, investigation is still going on in the present case. For thorough investigation of the case, custodial interrogation of the petitioners is necessary. It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C. is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Hon'ble Supreme Court in ***State Vs. Anil Sharma : (1997) 7 SCC 187*** held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconded with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves

in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

8. Keeping in view the nature of injuries and the gravity of the offence, the petitioners do not deserve the concession of anticipatory bail. Hence, the present petition is hereby dismissed.

9. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

10.05.2023
Kothiyal

(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No