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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-35213-2022 (O&M)  
Date of decision: 31.08.2023

NAVEEN KUMAR AND ANOTHER

...Petitioners

VERSUS

STATE OF HARYANA AND ANOTHER

...Respondents

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present:- Mr. Balraj Gujjar, Advocate  
for the petitioners.

Mr. Naveen Kumar Sheoran, DAG, Haryana.

Mr. R. A. Sheoran, Advocate  
for respondent No.2-complainant.

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**JASGURPREET SINGH PURI, J. (Oral)**

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioners in FIR No.202 dated 27.09.2021, under Sections 147, 149, 323, 307 and 506 of the IPC, registered at Police Station Jui Kalan, District Bhiwani, Haryana.

2. Learned counsel for the petitioners submitted that the petitioners have been falsely implicated in the present case and it was a case of version and cross version and therefore this Court had granted interim anticipatory bail to the petitioners on 09.08.2022 and also on the ground that earlier the offences in which the petitioners were involved were bailable offences and they were on bail and thereafter Section 307 of the IPC was added and in view of the law laid

down by the Hon'ble Supreme Court in *Pradeep Ram versus State of Jharkhand and another, 2020(3) SCC (Criminal) 326*, since no permission was taken from the Court to arrest the petitioners, they were entitled to grant of anticipatory bail. He further submitted that now the petitioners have already joined the investigation and therefore interim anticipatory bail granted to the petitioners may be made absolute. He further submitted that during the pendency of the present petition, respondent No.2-complainant, namely, Mandeep Kumar was also impleaded as party in the present case vide order dated 09.02.2023 and he has filed a separate application for cancellation of interim anticipatory bail granted to the petitioners on the ground that the interim anticipatory bail was granted to the petitioners on 09.08.2022 but later on allegedly the petitioners with other co-accused had attacked and caused injuries to the complainant on 12.08.2022 and consequently FIR No.165 dated 12.08.2022 under Sections 148, 149, 195-A, 323, 341 and 506 of the IPC was registered against the petitioners in this regard. He further submitted that subsequent FIR No.165 against the petitioners was false and fabricated and was registered only for the purpose of getting the interim order vacated and therefore the same cannot be relied upon. He further submitted that an FIR under Section 195-A of the IPC is not maintainable and only a complaint can be filed. He further submitted that respondent No.2-complainant was never referred by the private hospital to the Government hospital and it was the family members of the complainant who took him to the Government hospital to procure false and fabricated MLR. He further submitted that in subsequent FIR No.165 dated 12.08.2022, petitioner No.1 remained in custody for about two

months and was later on granted regular bail and other co-accused were granted anticipatory bail. He further submitted that so far as the present petitioners are concerned since they have already joined the investigation in the present case, they may be considered for grant of anticipatory bail and order dated 09.08.2022 may be made absolute.

3. On the other hand, Mr. Naveen Kumar Sheoran, DAG, Haryana submitted that so far as the present FIR, in which the interim anticipatory bail was granted to the petitioners is concerned, after the granting of interim anticipatory bail, the petitioners have undoubtedly joined the investigation but they are not entitled for grant of anticipatory bail in the present case in view of the subsequent events which have happened. He further submitted that on 12.08.2022 i.e. after about four days after the petitioners were granted interim anticipatory bail, the petitioners along with other co-accused waylaid respondent No.2-complainant and started beating him with *lathis* and *dandas* and also pressurized him that he should not depose against them and subsequently, FIR No.165 dated 12.08.2022, under Sections 148, 149, 195-A, 323, 341 and 506 of the IPC was registered against the petitioners and other co-accused. He further submitted that petitioner No.2, namely, Sunil, who is accused in aforesaid FIR No.165 filed an application before the police authorities on the ground that he and other co-accused were falsely implicated in subsequent FIR No.165 and thereafter a detailed investigation and inquiry was conducted by the Deputy Superintendent of Police, Bhiwani and it was found that both the petitioners and the other co-accused were involved in the aforesaid incident especially in view of the fact that at the time when

respondent No.2-complainant was beaten up, he had called on Police Control Room at 112 number and thereafter Emergency Response Vehicle No.140 came and took him to the hospital. First of all, he was taken to a private hospital and thereafter immediately by giving him first aid he was referred to Government Hospital from where as per the MLR, three injuries were found on the person of the respondent No.2-complainant, namely, Mandeep Kumar and now after the investigation, challan has already been presented in FIR No.165 against the petitioners. He further submitted that in view of the subsequent conduct of the petitioners in the present case, they are not entitled for grant of anticipatory bail.

4. Mr. R. A. Sheoran, learned counsel appearing on behalf of respondent No.2-complainant, who has filed a separate application for cancellation of interim order dated 09.08.2022 submitted that it is a case where immediately after the interim anticipatory bail was granted to the petitioners by this Court, respondent No.2-complainant was waylaid by the petitioners and other co-accused, who pressurized respondent No.2-complainant not to depose against them and on his refusal to do so, beatings were given to him with *lathis* and *dandas* and ultimately three injuries were found on the person of respondent No.2-complainant and after being admitted in the Government hospital, he was discharged after a period of four days i.e. on 16.08.2022. He further submitted that constantly the petitioners had been threatening respondent No.2-complainant not to depose against them and rather as per FIR No.165 dated 12.08.2022, the allegations were that the petitioners and other co-accused had repeatedly threatened to kill respondent No.2-complainant in case he deposes against them. He further submitted that in view of the aforesaid

conduct of the petitioners after grant of interim anticipatory bail and for violating of the conditions of Section 438(2) Cr.P.C., they are not entitled for grant of anticipatory bail.

5. I have heard the learned counsel for the parties.

6. It is a case where the petitioners had filed the present petition for grant of anticipatory bail and this Court had granted interim anticipatory bail to the petitioners on 09.08.2022 and also directed them to join the investigation and to abide by the conditions as provided under Section 438(2) Cr.P.C. The aforesaid order dated 09.08.2022 granting interim anticipatory bail to the petitioners is reproduced as under:-

*Learned counsel for the petitioners has submitted that it is a case of version and cross version and in fact the other party was the aggressor party and all the accused of the other party have already been granted bail. He further submitted that initially the offence attributable to the petitioners was bailable offence and they were enlarged on bail but thereafter, Section 307 IPC has been added and therefore, there is an apprehension that the petitioners may be apprehended after the adding of Section 307 IPC. He also submitted that in view of the law laid down by the Hon'ble Supreme Court in **"Pradeep Ram Vs. State of Jharkhand and another"**, 2020(3) SCC (Criminal) 326, where accused is already on bail on addition of offence or offences accused cannot be arrested. For arresting accused order to arrest need to be taken from the Court which had granted bail.*

*Notice of motion.*

*Mr. R.S. Arya, Addl. A.G., Haryana accepts notice on behalf of the respondent/State.*

*Adjourned to 09.02.2023.*

*Meanwhile, the petitioners are directed to join the investigation and on their doing so, the petitioners be released on interim bail subject to their furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioners shall continue to join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.*

7. However, as per learned State counsel as well as learned counsel for respondent No.2-complainant, after about four days after interim anticipatory bail was granted to the petitioners i.e. on 12.08.2022, the petitioners along with other co-accused waylaid respondent No.2-complainant and caused beatings to him and also threatened to kill him by threatening that he should not depose against them. As per Annexure P-11, which is the report of Deputy Superintendent of Police, Bhiwani, on the basis of a complaint made by petitioner No.2, namely, Sunil that he along with other co-accused have been falsely implicated, it was so stated by the Deputy Superintendent of Police, Bhiwani in his report dated 22.09.2022 that when respondent No.2-complainant was beaten up then he had called Police Control Room by dialing 112 and the Emergency Response Vehicle No.140 came on the spot and got respondent No.2-complainant admitted in the hospital and therefore there was no force in the complaint which was filed by petitioner No.2 that he along with other co-accused have been falsely implicated in FIR No.165 dated 12.08.2022. As per learned State counsel, in aforesaid FIR No.165 dated 12.08.2022, even challan has been presented by the police.

8. So far as the argument of learned counsel for the petitioners that the subsequent FIR No.165 dated 12.08.2022 was under Section 195-A of the IPC is not maintainable and only a complaint can be filed is concerned, the same is not sustainable in view of the fact that it is the conduct of the petitioners which is to be seen and not the process adopted by the police in the present case. Apart from Section 195-A, there are other Sections as well. So far as another argument as raised by learned counsel for the petitioners that in subsequent FIR No.165, petitioner No.1 remained in custody for about two months and was later on granted regular bail and other co-accused were granted anticipatory bail is concerned, the same is also not sustainable in view of the fact that mere fact that the petitioner No.1 remained in custody in FIR No.165 would not mean that he is immune from violating the conditions imposed by this Court on 09.08.2022 while granting him interim anticipatory bail.

9. Therefore, considering the aforesaid totality and facts and circumstances of the present case, this Court is of the view that when this Court had granted interim anticipatory bail to the petitioners on 09.08.2022 and after about four days i.e. on 12.08.2022, an FIR No.165 was lodged against the petitioners and his other accomplices by alleging that respondent No.2-complainant was threatened not to depose against the petitioners and allegations were also with regard to killing him in case he dare to depose against them and thereafter even the police had already presented challan in FIR No.165, this Court is of the view that considering the conduct of the petitioners, who are accused in aforesaid FIR No.165 dated 12.08.2022, they do not deserve the concession of anticipatory bail.

10. So far as the position with regard the judgment of Hon'ble Supreme Court in **Pradeep Ram's case (supra)** on the basis of which notice of motion was issued by this Court and interim anticipatory bail was granted to the petitioners is concerned, for the purpose of considering the fact as to anticipatory bail should be granted to the petitioners or not, the same cannot become a ground for grant of bail to the petitioners in view of the subsequent conduct of the petitioners as stated aforesaid. However, so far as the implementation of the aforesaid judgment of Hon'ble Supreme Court as relied upon is concerned, the State shall always comply with the aforesaid judgment.

11. Consequently, the present petition is dismissed.

12. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petition only.

**31.08.2023**  
Chetan Thakur

**(JASGURPREET SINGH PURI)**  
**JUDGE**

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