

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M No.42650 of 2022

Date of Decision : 13.12.2023

Randhir and Another

....Petitioners

VERSUS

State of Haryana and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Mohan Singla, Advocate for the petitioners.

Ms. Mahima Yashpal, DAG Haryana for respondent No.1.

ALKA SARIN, J. (Oral)

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioners in FIR No.232 dated 17.08.2022 under Sections 354-D, 376-D and 506 of the Indian Penal Code, 1860 (Sections 328, 365 and 457 IPC were added later on) registered at Police Station Rajound, District Kaithal.

2. On 16.09.2022 the following order was passed :

“Petitioners have approached this Court praying for grant of anticipatory bail in case FIR No.232 dated 17.08.2022, under Sections 354-D, 376-D, 506 of IPC (Sections 328, 365, 457 of IPC added later on), registered at Police Station Rajound, District Kaithal, Haryana.

Learned counsel for the petitioners has submitted that the petitioners have been falsely implicated in this case in a clandestine manner. He has submitted that both the sides i.e. complainant side and the petitioners'

side are at loggerheads since long. He has submitted that on 6 th July, 2022, a brawl took place between both the families i.e. complainant side and the petitioners' side. He has submitted that in that scuffle, petitioner-Randhir was beaten by the complainant side and he was admitted in the hospital where he was medically treated on 7th July, 2022. Thereafter, he made a complaint to the police on 11th July, 2022 regarding beating given to him by the complainant side on 6th July, 2022. However, the police did not register any FIR. The other side also registered a complaint on the same date i.e. on 11th July, 2022. Resultantly, the police issued a Kalandra under Section 107/151 Cr.P.C. against both the sides to maintain peace and harmony in the society. He submits that thereafter the complainant side again made an attempt to attack petitioner No.1 on 11th August, 2022 but as the petitioner No.1 was not present at home, they did not succeed in the same. Father of petitioner No.1 made a complaint to the police on 14.08.2022 regarding this incident. He has submitted that clandestinely thereafter, the complainant lodge the present FIR on the basis of totally false and frivolous allegations. He has submitted that the occurrence alleged in the FIR is dated 8th March, 2022 at 02:00 PM i.e. five months prior to lodging of the present FIR. He has submitted that from the bare reading of the allegations in the FIR, it is evident that the prosecutrix who is of the age of majority has levelled the allegations in the FIR only in order to implicate the petitioners in false case, with whom they are already at loggerheads. He has submitted that there is no justification for the exorbitant and unexplained delay of five months in reporting the matter regarding the alleged rape. He submits that petitioner No.2 is the nephew of petitioner

No.1 and thus, he has also been named in the FIR. He submits that the petitioners have no criminal antecedents as they have never been implicated in any offence of such nature. He has submitted that no case for custodial interrogation is made out and thus, they deserve to be granted bail.

Notice of motion.

On asking of the Court, Mr. B.S. Virk, D.A.G., Haryana accepts notice on behalf of the respondent-State.

List on 16.01.2023.

In the meantime, in the event of arrest, the petitioners shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. The petitioners shall join investigation before the Investigating Agency/Officer. They shall abide by the following conditions as envisaged under Section 438(2) Cr.P.C:-

(1) That the petitioners shall make themselves available for interrogation by a police officer as and when required to do so.

(2) That the petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the court or to any police officer.

(3) That the petitioners shall not leave India without prior permission of the court.”

3. Learned counsel for the petitioners states that the petitioners have since joined the investigation and fully cooperated.

4. Learned counsel for the State on instructions from SI Satyawan has submitted that the cancellation report has been prepared in the present

case and that the petitioners have since joined investigation and fully cooperated and that they are no longer required for further custodial interrogation as of now.

5. In view of the above, the order dated 16.09.2022 is made absolute. The petitioners shall, however, join investigation as and when called. The petitioners shall also abide by all the terms and conditions as specified under Section 438(2) of the Code of Criminal Procedure, 1973.

6. Disposed off accordingly. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

13.12.2023
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO