

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

211

CRM-M-47758-2022

Date of decision : 28.02.2023

Sonu

Petitioner

V/S

State of Haryana

Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Sanchit Punia, Advocate
for the petitioner.

Mr. Munish Sharma, Asstt. A.G., Haryana
for the respondent-State.

Mr. Ashish Aggarwal, Advocate
for the complainant.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.263 dated 13.07.2022 registered under Sections 148, 149, 307, 323, 341 and 506 of the Indian Penal Code, 1860 at Police Station Bilaspur, District Yamuna Nagar.

The above-said FIR was registered on a complaint made by Salamati w/o Naseem Khan alleging that on 12.07.2022 at about 10 a.m. when she and her sons Aarif, Shahrukh and Akram were going towards their fields, accused-Sakil, Sonu s/o Sakil, Tahira, Adrish and Sonu s/o Adrish (the petitioner), armed with Dandas, Gandasi and other weapons, stopped them and gave beatings to them with their weapons.

Learned counsel for the petitioner submits that the

petitioner has been falsely implicated in the present case. The present FIR is nothing but just a counter-blast of FIR No.266 dated 14.07.2022 registered at the instance of co-accused Sakil against the complainant and her family members. The allegations levelled in the present FIR are totally false and concocted. No offence is made out against the petitioner. Co-accused Tahira, Sufiyan, Adrish and Sakil have already been granted interim bail by this Court vide orders dated 30.08.2022, 30.09.2022, 14.09.2022 and 06.09.2022 respectively. Nothing is to be recovered from the petitioner and his custodial interrogation is not required in the case. The petitioner is already ready and willing to join the investigation.

On the other hand learned State counsel assisted by learned counsel for the complainant has vehemently opposed the present petition on the grounds that the petitioner along with his co-accused has inflicted injuries upon the complainant and her sons. For thorough investigation of the case and for recovery of weapons used in the crime, custodial interrogation of the petitioner is required.

Having heard learned counsel for the parties, I am of the view that the allegations against the petitioner are serious in nature. As per reply filed by the State on 12.07.2022 when complainant-Salamati and her sons Aarif, Shahrukh and Akram were going towards their field, accused Shakil and Tahir attacked upon them with dandas and lathis. The petitioner gave danda blow on the head of Aarif, accused Tahil caught the complainant with her hair, accused-Adrish gave danda blow on her right hand, Sufiyan gave danda blow on her face and also gave

beatings to her sons. Thereafter, the accused ran away from the spot with their respective weapons. As per opinion of the doctor injury No.1, inflicted upon Aarif caused by the petitioner, involving vital organ i.e. brain was declared 'dangerous to life'. On the basis of said opinion, offence under Section 307 of the IPC was added in the case.

Furthermore, investigation is still going on in the present case. For thorough investigation of the case and for recovery of weapons used in the crime custodial interrogation of the petitioner 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 ensconced 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.”

Keeping in view the aforementioned facts and circumstances and nature of averments, the petitioner does not deserve the concession of anticipatory bail. Hence, the present petition is hereby dismissed.

28.02.2023

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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No