

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

213

CRM-M-51313-2022
Date of decision : 21.02.2023

Mahesh Sharma

Petitioner

V/S

State of Haryana

Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Kanhiya Soni, Advocate
for the petitioner.

Mr. Gaurav Bansal, Asstt. A.G., Haryana
for the respondent-State.

Mr. Surinder Gaur, 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.127 dated 22.10.2022 registered under Sections 307, 34 and 379-B (added later on) of the Indian Penal Code, 1860 at Police Station GRP Hisar, District GRP Ambala.

The above-said FIR was registered on the statement made by complainant-Mohan Lal alleging that on 21.10.2022 he along with his companion Chajju Ram were travelling in a train from Delhi to Hisar. There are 03 other persons in the compartment who were drunk. After sometime 02 of them started quarreling with him, gave beatings to him and threw him out from the running train with intention to kill him due to which he received injuries on various parts of his body.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. No offence under Sections 307, 34 and 379-B of the IPC are made out against the petitioner as the petitioner is not named in the FIR which was registered against some unknown persons. As per the first statement made by the complainant, no bag was ever snatched by the petitioner and his co-accused from him. Section 379-B of the IPC was added on the supplementary statement made by the complainant on 23.10.2022 in order to establish motive to commit alleged offence under Section 307 of the IPC. 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 opposed the present petition in terms of status report dated 07.12.2022 filed by the State and submits that there are specific allegations that the petitioner and his co-accused firstly quarreled with the complainant and with intention to kill him they threw him out from the running train due to which he had received total 04 injuries out of which 01 is declared grievous in nature. For thorough investigation of the case, custodial interrogation of the petitioner is required.

Having heard learned counsel for the parties, I am of the considered view that the allegations against the petitioner are serious in nature. As per Status report, the petitioner and his co-accused threw the complainant out from the running train due to which he received multiple injuries. In his

supplementary statement dated 23.10.2022, the complainant specifically mentioned that the accused who gave beatings to him had also snatched his bag containing his purse, ATM, MST Railway Bhiwani to Hazrat Nizamudin, DL, a SIM card of JIO, Rs.45000/- in cash and an empty plastic tiffin. During investigation, the Investigating Officer went to the house of the petitioner where the mother of petitioner handed over the same bag containing cash, ATM etc. to the Investigating Officer which was taken into police possession.

Furthermore, investigation is still going on in the present case. For thorough investigation of the case the 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 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.”

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.

21.02.2023
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(ASHOK KUMAR VERMA)
JUDGE

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