

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55333 of 2022

Date of decision: 24.04.2023

Vijay Hans and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. D.S. Gandhi, Advocate, for the petitioners.
Mr. Jashanpreet Singh, DAG, Punjab.
Mr. Vikasdeep Singh, Advocate, for respondent No.2.

NAMIT KUMAR, J.

1. This petition has been filed by the petitioners under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.0114 dated 14.03.2018 under Sections 148, 149, 323, 324 IPC (Sections 307, 326 IPC added lateron), registered at Police Station Civil Lines, District Amritsar.

2. Present FIR has been registered on the statement of complainant Lovepreet Singh alleging therein that on 14.03.2018 at about 10:00 a.m. he went to Sunny Hair Cutting Saloon for cutting of hairs. He was waiting for his turn and in the meantime Vishu (petitioner No.2), Punjab (petitioner No.4), Janty and two unknown persons entered into the above-mentioned shop. Vishu, Punjab and Junty were having *datars* in their hands whereas one unknown person was having a knife (*Khanjer*) and other known person was carrying red chilly powder. Vishu made two blows of *datar* which hit on his left arm;

thereafter Janty gave two blows of *datar* which hit on his left and right arm; Vishu gave another blow of *datar* which hit on the backside of his head; Janty made blow of *datar* which hit on his chest; then Punjab gave blows of *datar* which hit on his right arm; unknown persons made blow of knife which hit on his stomach. Thereafter, unknown person, who was carrying red chilly powder, sprinkled the said powder in his eyes. On his raising hue and cry all the accused ran away from the spot.

3. Learned counsel for the petitioner contended that petitioners are innocent and have been falsely implicated in the present case as they have not committed the alleged offence. He further submitted that matter has been compromised between the parties vide compromise deed Annexure P-2. He further submitted that petitioners are not involved in any other case and they are ready and willing to join the investigation.

4. Per contra, learned State counsel, has opposed the prayer for grant of anticipatory bail to the petitioners by submitting that allegations against the petitioners are serious, therefore, their custodial interrogation is necessary.

5. I have heard learned counsel for the parties and perused the record.

6. As per status report dated 18.02.2023 filed by the State, following role has been attributed to the petitioners: -

“PETITIONER NO.1 – VIJAY HANS- The petitioner no. 1 Vijay Hans had poured chilly powder in eyes of the complainant.

PETITIONER NO. 2-VISHU-The petitioner no. 2-Vishu was armed with sickle and he had given two blows of sickle on left arm, which were declared simple in nature, one blow thereof on backside

of head of the complainant which was declared sharp and grievous in nature.

PETITIONER NO. 3-AJAY KUMAR @ DIMPY-The petitioner no. 3-Ajay Kumar @ Dimpy had poured chilly in eyes of the complainant.

PETITIONER NO. 4-PUNJAB SINGH-The petitioner no. 4-Punjab Singh was armed with sickle and he caused 02 injuries on right bicep and palm of right hand of the complainant. The injury of right hand was declared simple in nature and injury of right bicep is not clear in the MLR. ”

7. Perusal of the above shows that petitioner No.2-Vishu and petitioner No.4-Punjab Singh gave sickle blows on the person of the complainant. Injury caused by petitioner No.2-Vishu on the head of the complainant has been declared grievous in nature. Petitioners No.1 and 3, namely, Vijay Hans and Ajay Kumar @ Dimpy poured chilly powder in the eyes of the complainant. Thus, petitioners have committed serious offence and cannot be said to have been falsely implicated in the present case.

8. Petitioners filed three petitions bearing numbers CRM-M-20903 of 2018, CRM-M-33640 of 2020 and CRM-M-37210 of 2020 before this Court for quashing of the FIR in question on the basis of compromise, however, the same have been dismissed as withdrawn vide orders dated 04.04.2019, 27.10.2020 and 02.02.2023. Therefore, contention of learned counsel for the petitioners that parties have compromised the matter, cannot be accepted.

9. As per law laid down by the Hon'ble Supreme Court in ***State of Madhya Pradesh v. Pradeep Sharma (2014) 2 Supreme Court Cases 171***, power exercisable under Section 438 Cr.P.C. is somewhat extraordinary in character and it is to be exercised only in exceptional

cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his/her liberty.

10. There are specific allegations against the petitioners, which are serious in nature. Custodial interrogation of the petitioners may provide information leading to discovery of material facts. Curtailing of his freedom is necessary in order to enable the investigation to proceed without hindrance and to protect witnesses.

11. It is pertinent to mention here that present FIR was registered on 14.03.2018 and the petitioners filed application seeking anticipatory bail before the Court of Additional Sessions Judge, Amritsar on 31.10.2022. For the last more than 4½ years, petitioners are evading the process of law.

12. In view of the facts and circumstances of the case, I am of the considered view that petitioners cannot *prima facie* be said to have been falsely enroped in the crime and their custodial interrogation is necessary in the case and that petitioners are likely to abscond and misuse their liberty and do not deserve grant of anticipatory bail.

13. In view of the above, the petition is dismissed.

(NAMIT KUMAR)
JUDGE

24.04.2023
R.S.

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No