

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

204

CRM-M-58212-2022
Date of decision : 13.01.2023

Rajan and anotherPetitioners

Versus

State of Haryana Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Namit Khurana, Advocate
for the petitioner.

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

Mr. Sandeep Singh, Advocate
for the complainant.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioners have filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.214 dated 08.09.2022 registered under Sections 148, 149, 323, 506 and 307 (added later on) at Police Station Radaur, District Yamuna Nagar.

Reply by way of an affidavit dated 31.12.2022 of Sh.Rajat Gulia, HPS, Deputy Superintendent of Police, Radaur, on behalf of the respondent-State, has been filed in the Registry which is taken on record.

Brief facts of the case are that the above-said FIR was registered on the complaint made by complainant-Mewa Devi alleging that on 07.09.2022 at about 04:00 p.m. when her son Vikram Singh and Sunil (neighbourer) were sitting in SC Chopal, accused-Rajan, Deepak

and Yogesh along with 02 other persons with muffled faces, armed with iron rods, grandasi and sharp edge weapons came and attacked upon her son with intention to kill him. When the people gathered there, the accused fled from the spot.

Learned counsel for the petitioners has argued that the petitioners have been falsely implicated in the present case. In fact, Vikram Singh (son of the complainant) was unnecessary harassing the sister of the petitioners regarding which FIR No.213 dated 07.09.2022 has been registered against Vikram Singh on the complaint filed by the petitioners. The present FIR is nothing but just a counter-blast of FIR No.213 dated 07.09.2022. The antecedents of the petitioners are clean and clear and they are not involved in any other case. Nothing has to be recovered from the petitioners and their custodial interrogation is not required in the case. The petitioners are also ready and willing to join investigation. Therefore, the petitioners may be granted anticipatory bail.

On the other hand, learned State counsel assisted by learned counsel for the complainant has opposed the present petition and argued that the petitioners brutally attacked upon the son of the complainant and caused multiple injuries to him with gandasi, iron rods and sharp edge weapon. For recovery of weapons used in the crime custodial interrogation of the petitioners are required. Therefore, the petitioners do not deserve the concession of anticipatory bail.

Having heard learned counsel for the parties, I am of the view that the allegations against the petitioners are serious in nature. As per reply filed by the State, injured-Vikram Singh got recorded his

statement to the Investigating Officer to the effect that on 07.09.2022 at about 04:00 p.m. he and his neighbourer Sunil was sitting at SC Chopal. At that time, the petitioners along with 02 unknown persons came there and gave beatings to him with iron rod, gandas and sharp edge weapon with intention to kill him. As per MLR of injured, doctor found comminuted and depression fracture at left parietal bone adjacent to the coronal suture with associated marked extradural hemotome with maximum thickness of 144 mm with associated pneumocephalus and said injury has been opined as dangerous to life.

Furthermore, investigation is still going on in the present case and co-accused are yet to be arrested. For thorough investigation of the case and for recovery of weapons used in the commission of offence, custodial interrogation of the petitioners 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 petitioners do not deserve the concession of anticipatory bail. Hence, the present petition is hereby dismissed.

13.01.2023

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(ASHOK KUMAR VERMA)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No