

CRM-M-56263 of 2022

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

CRM-M-56263 of 2022
Date of decision:01.02.2023

Sunil Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. DPS Jaura, Advocate, for the petitioner.
Mr. Anup Singh, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.181 dated 01.09.2022 under Sections 34/379-B/323/120-B IPC (later on added Sections 379-B & 120-B IPC after deleting Section 379 IPC), registered at Police Station Sadar Dhuri, District Sangrur, Punjab.

Present FIR has been lodged at the instance of Darbari Lal @ Sanjay Kumar against three unknown persons on the allegations that on 24.08.2022, at about 8.00 p.m, he was present in his house and after receiving telephonic call from Yadwinder Singh @ Yaadi, he along-with said Yadwinder Singh @ Yaddi proceeded towards village Dhure on his motor-cycle bearing no. PB-59B-1513 in connection with some work. Before reaching village, he stopped the motor-cycle at a distance of 15 / 20 ms from Harchandpura as Yadwinder Singh @ Yaadi asked to give answer to the call of nature. At about 8.30 p.m, they were sitting by the side of motor-cycle, in the meantime, three persons were seen

CRM-M-56263 of 2022

coming on a motor-cycle and stopped there, out of which, two persons, who were armed with iron rods, came towards them and attacked. Yadwinder Singh succeeded in fleeing away. Out of said duo, the clean-shaved youth gave iron rod blow on the head of complainant and he became unconscious and when he gained consciousness, Yadwinder Singh was sitting by his side, who revealed regarding theft of his motor-cycle by the trio after inflicting injuries to him. Then the complainant was taken to the house of Dharampal Sarma and came at the spot, where Sandeep Singh @ Sunny also came at the spot, upon which, Yadwinder Singh suddenly left the spot. The complainant was taken to Civil Hospital Dhuri.

On issuance of notice of motion, status report by way of affidavit of Yogesh Kumar, Deputy Superintendent of Police, Sub Division Dhuri, District Sangrur, has been filed on behalf of the respondent-State, which is already on record.

Learned counsel for the petitioner contends that the petitioner is innocent and has been falsely implicated in the present case. He further submits that petitioner is not named in the FIR and has been nominated as an accused only on the basis of disclosure statement of co-accused Yadwinder Singh alias Yaddi, which has no evidentiary value in the eyes of law. He further submits that no specific role has been attributed to the petitioner and nothing is to be recovered from him. Learned counsel further submits that petitioner is ready and willing to join the investigation.

CRM-M-56263 of 2022

Per contra, learned State counsel opposes the prayer for grant of anticipatory bail to the petitioner on the ground that he has been specifically named by the complainant and other two co-accused and petitioner is a habitual offender as one more case is pending against him. He further submits that motorcycle of the complainant is yet to be recovered. Therefore, custodial interrogation of the petitioner is required.

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

Serious allegations have been levelled against the petitioner as per supplementary statement of the complainant and disclosure statement of two co-accused, namely, Yadwinder singh and Arun Kumar that petitioner gave iron rod blow on the head of the complainant as a result of which he became unconscious. Thereafter, his motorcycle bearing registration No.PB-59B-1513 was stolen, which is yet to be recovered. Moreover, in para 12 of the petition, petitioner has mentioned that no other FIR/case is pending against him. However, perusal of FIR shows that petitioner is involved in one more case bearing FIR No.95 dated 11.05.2020 under Section 188 IPC, registered at Police Station City Dhuri, District Sangrur. It is a well-settled proposition of law that a person who does not approach the Court with clean hands and played fraud with the Court, is not entitled for any relief. Reference in this regard can be made to the judgments in ***Dalip Singh v. State of U.P. and others - JT 2009 (15) SC 201: (2010) 2 SCC***

CRM-M-56263 of 2022

114 and Amar Singh v. Union of India and others, WP(C) No.39/06 decided on 11.05.2011.

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.

There are specific allegations against the petitioner that he had given iron rod blow on the head of the complainant. The allegations are serious in nature. Custodial interrogation of the petitioner 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.

Keeping in view the facts and circumstances of the case, role attributed to the petitioner and gravity of offence, petitioner does not deserve the concession of anticipatory bail.

The present petition is accordingly dismissed.

However, anything observed hereinabove shall not be construed as an expression of opinion on the merits of the case.

01.02.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No