

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

107

CRM-M-63793-2023

Date of Decision: 20.12.2023

Kuldeep

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present:- Mr. Anas Ahmed, Advocate,
for the petitioner.

Ms. Ambika Sood, Addl. A.G., Haryana.

VIKAS SURI, J. (Oral)

1. Petitioner Kuldeep, seeking pre-arrest bail, has filed this petition under Section 438 Cr.P.C. in case FIR No.386 dated 06.11.2023, under Sections 148, 149, 323, 506 IPC (Sections 307, 327, 379-B, 120-B IPC & Section 25 of Arms Act added later on), registered at Police Station City, Mahendergarh, District Mahendergarh.

2. Succinctly, on a complaint made by one Arun Gomi, the above captioned FIR was registered alleging that the complainant's father had received information that one Dharmender son of Mahavir is trying to forcibly occupy the shop and wants to install a gate. After receipt of the aforesaid information, complainant's father along with other family members reached there to stop them and also made a phone call at

Police Helpline number 112. Thereafter, while the complainant remained at the shop, his father went to the police station. After some time, one Camper and two other vehicles came at the spot and 15/20 persons alighted therefrom. The driver of Camper attempted to run over the complainant. The said persons attacked the complainant with *lathis* and *dandas* and inflicted injuries on his head, legs and other parts of the body. They also snatched away his gold chain and took out ₹1300-1400/- from his pocket. In order to save himself, he entered Sheela Hospital. On the supplementary statement of the complainant, offences under Sections 307, 327, 379-B, 120-B IPC and Section 25 of Arms Act were added later on.

3. Learned counsel for the petitioner submits that the petitioner has entered into a compromise with the complainant and on the said basis, has already approached this Court by way of CRM-M-63248-2023 for quashing the instant FIR. Learned counsel would refer to order dated 15.12.2023 passed in the connected petition to submit that the parties therein have been directed to get their statements recorded before the trial Court with regard to the compromise/settlement. A perusal of the aforesaid order reflects that serious offences, which were added later on, do not find mention in the aforesaid order and therefore, records of connected petition were called for. A perusal of the record of CRM-M-63248-2023 shows that the grievous offences attracting higher punishment, which were added later

on, are not mentioned in the head note or the prayer clause of the aforesaid petition. The same *prima facie* appears to be a wilful result of clever drafting, as in para No.2 thereof it has been specifically mentioned that later on, Sections 307, 327, 379-B, 120-B IPC and Section 25 of Arms Act were added.

4. Ms. Ambika Sood, Addl. A.G., Haryana, representing the respondent-State submits that the petitioner is a dreaded gangster and is involved in numerous criminal cases relating to land grabbing, snatching and other heinous offences, but nobody dares to name or speak against him. It is submitted that the petitioner is involved in 32 criminal cases and stands convicted in two of them, wherein he has been awarded rigorous imprisonment for a period of 07 years. Out of the two aforesaid cases, he has already undergone the sentence in one of them. However, the petitioner has also been acquitted in 12 cases and is currently facing trial in 17 other such cases.

5. Heard learned counsel for the parties and with their able assistance have gone through the material available on record.

6. In ***Siddharam Satlingappa Mhetre vs. State of Maharashtra and others***, (2011) 1 SCC 694, the Apex Court laid down the parameters and factual aspect to be taken into consideration while dealing with anticipatory bail applications. Relevant portion of the said judgment read as thus:-

“112. The following factors and parameters can be taken into consideration while dealing with the

anticipatory bail:

(i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

(ii) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;

(iii) The possibility of the applicant to flee from justice;

(iv) The possibility of the accused's likelihood to repeat similar or other offences;

(v) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;

(vi) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;

(vii) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;

(viii) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment,

humiliation and unjustified detention of the accused;

(ix) The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

(x) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”

7. In the light of the law laid down by the Apex Court in ***Siddharam Satlingappa Mhetre's*** case (supra) and the fact that the petitioner is involved in as many as 32 criminal cases and recovery of weapons and vehicles is yet to be effected from him and his other companions, this Court does not deem it to be a fit case for grant of the concession of anticipatory bail to the petitioner. In the considered opinion of this Court, custodial interrogation of the petitioner is very much essential to unearth the name of the persons involved in the commission of offences and to recover the weapons and vehicles involved. No ground is made out to *prima facie* disbelieve the allegations made against the petitioner, at this stage.

8. In the present case, material information is likely to be elicited from the petitioner and if he is granted the concession of anticipatory bail, it will certainly hamper the investigation especially keeping in view his criminal antecedents. The allegations levelled

against the petitioner are serious in nature and, therefore, he is not entitled for grant of anticipatory bail at this stage.

9. In the light of the above discussion, finding it not to be a fit case to grant indulgence in the peculiar facts and circumstances, the present petition is dismissed.

10. It is made clear that anything observed hereinabove is only for decision of the present petition and the same shall not influence the investigation in any manner.

December 20, 2023

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(VIKAS SURI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No