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

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Date of Decision:- 30.09.2024

Ricky

....Petitioner

Vs.

State of Haryana and Anr.

...Respondents

CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Anmol Partap Singh Mann, Advocate with
Mr. Navjot Singh Sidhu, Advocate for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

Mr. Amandeep Singh Manaise, Amicus Curiae,
for respondent No.2.

AMARJOT BHATTI, J.

1. Ricky has filed this petition under Section 439(2) read with Section 482 of Cr.P.C. for setting aside order dated 12.12.2022 passed by learned Additional Sessions Judge, Gurugram granting anticipatory bail to respondent No.2 Naveen in bail application No.558 of 05.12.2022 in FIR No.328 dated 28.11.2022, registered at Police Station DLF-Phase-III, Gurugram, under Sections 307, 34 of IPC and Section 25(1)(A) of Arms Act (Section 216 of IPC was added later on).

2. Learned counsel for petitioner argued that learned Additional Sessions Judge, Gurugram has granted anticipatory bail to Naveen (respondent No.2) without considering the facts and circumstances of the case. As per the facts, on the night of 27.11.2022, complainant received

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call from Naveen (respondent No.2) who is a notorious criminal, threatening him not to interfere in his work at club and further not to interfere between him and complainant's friend namely Joginder otherwise he would be taught a lesson. Naveen (respondent No.2) called him to Sai Mandir, Gurgaon City and on this petitioner along with his friend Akash reached there. At about 9:40 PM Naveen (respondent No.2) came on the spot in his white coloured Scorpio vehicle along with three other associates and fired directly at him and his friends but luckily they escaped. Copy of FIR is Annexure P-1. During investigation, two empty cartridges were recovered from the spot and there was CCTV footage. Screen shots of said CCTV footage and photograph of Naveen (respondent No.2) on social media are Annexure P-2 and P-2A. In fact Naveen (respondent No.2) and his associates had intention to murder the petitioner and his friend and they repeatedly attacked on them with dangerous weapon. Naveen (respondent No.2) was accompanied by Pankaj Yadav, Rohit @ Sakhi. Petitioner had given a representation to the police dated 22.12.2022 which is Annexure P-4. In fact, Naveen is a gangster and a criminal who is involved in several cases which are mentioned in para No.14 of the petition. Without considering his criminal antecedents and the facts of the case he is wrongly granted anticipatory bail. Learned Court without any justification returned the finding that Naveen (respondent No.2) had no intention to murder him and in fact he had the intention to create fear in the mind of complainant so as to discourage him from meddling in the affairs of the club. Aforesaid observation of learned Additional Session Judge, Gurugram are liable to be set aside. Considering the aforesaid factual position, anticipatory bail

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granted vide order dated 12.12.2022 may kindly be set aside and Naveen (respondent No.2) be taken into custody.

3. Learned counsel representing State assisted by learned Amicus Curiae for respondent No.2 filed status report dated 20.09.2023 confirming the facts that Naveen (respondent No.2) was granted concession of anticipatory bail in the aforesaid FIR vide order dated 12.12.2022 and in pursuance of the same respondent No.2 joined investigation on 12.01.2023. Investigation was completed. Country made pistol and Scorpio vehicle bearing registration No.HR-51-BN-0392 were also taken into police possession. Two empty cartridges and said country made pistol were also sent to FSL Madhuban for the purpose of examination. Said anticipatory bail was contested by ASI Jagmal. However, learned Additional Sessions Judge, Gurugram granted anticipatory bail in favour of Naveen (respondent No.2). At present challan is already presented in which Naveen (respondent No.2) is facing trial.

4. I have considered the aforesaid factual position and have gone through the record annexed with the present petition. It is a matter of record that Naveen (respondent No.2) filed anticipatory bail application No.558 of 05.12.2022 in FIR No.328 dated 28.11.2022, under Sections 307, 34 of IPC and Section 25(1)(A) of Arms Act (Section 216 of IPC was added later on), registered at Police Station DLF-Phase-III, Gurugram which was contested by the State. Said anticipatory bail application was allowed by passing impugned order dated 12.12.2022 (Annexure P-6) subject to the conditions detailed under Section 438(2) of Cr.P.C. As per the status report, it is confirmed that Naveen (respondent No.2) joined investigation on 12.01.2023 and Scorpio vehicle bearing registration

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No.HR-51-BN-0392 and the country made pistol were recovered. It clearly shows that respondent No.2 joined investigation and fully cooperated with the investigating agency. Now after completion of investigation challan is already presented on 08.03.2023 and Naveen (respondent No.2) along with other co-accused is facing trial. In the status report nothing has come on record to show that Naveen (respondent No.2) misused the concession of anticipatory bail granted in his favour.

5. I have also gone through the impugned order dated 12.12.2022 (Annexure P-6) in which while disposing of the anticipatory bail application, learned Additional Sessions Judge Gurugram observed in para No.8 as under:-

“From the facts, it appears that accused-applicant was intending to desist the complainant from meddling into the affairs of club, as his friend Joginder was doing the work in said club. In the firing, none was hurt. As such, it appears that his intention was to create a fear in the mind of complainant, so as to desist him from meddling into the affairs of the club. As such, intention to kill, which is a basic ingredient of offence punishable under Section 307 IPC, prima facie, appearing missing.”

Aforesaid observation by learned Additional Sessions Judge, Gurugram at the stage of deciding anticipatory bail application is uncalled for. Matter in controversy can be decided only after recording of evidence led by the prosecution as well as stand taken by the accused persons. Therefore, said observation by learned Additional Sessions Judge, Gurugram while deciding bail application will have no bearing on the merits of the case.

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Considering the aforesaid factual position, I do not find any justification to cancel the bail granted in favour of Naveen (respondent No.2) and the petition seeking cancellation of bail is accordingly declined. In case petitioner apprehends any threat perception, he can approach the concerned police station who will take appropriate steps for the security of petitioner.

6. Pending miscellaneous application(s), if any, stand disposed of accordingly.

30.09.2024

Sunil Devi

(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No