

222

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-871-2024
Date of decision : 01.04.2024

GURSEWAK SINGHPetitioner

Versus

STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Imran Farooqi, Advocate
for the applicant/petitioner.

Mr. Amit Shukla, Asstt. Advocate General, Punjab.

Ms. Tania Mahajan, Advocate
for the complainant.

PANKAJ JAIN, J. (ORAL)

On 09.01.2024, the following order was passed :-

“Apprehending his arrest in FIR No.140 dated 30.10.2022, registered under Sections 452/323/324/148/149 IPC at Police Station Sadar Ahmedgarh, District Malerkotla, petitioner seeks pre-arrest bail.

Learned counsel for the petitioner inter alia submits that the dispute is between the family and the injuries alleged to have been caused are simple in nature.

Notice of motion for 01.04.2024.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of the respondent-State.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal and surety bonds to the satisfaction of the arresting officer/

Investigating Officer. As and when called, the petitioner shall join the investigation. He shall abide by the conditions enumerated under Section 438(2) of the Cr.P.C.”

2. Thereafter, an application qua addition of offence under Section 326 IPC in the headnote as well as prayer clause of the main petition and the consequential modification in the aforesaid order dated 09.01.2024 was moved. The same was allowed vide order dated 20.03.2024 observing as under:

“This is an application filed under Section 482 Cr.P.C. seeking incorporation of offence punishable under Section 326 of the Penal Code in the head note and the prayer clause of the petitioner and the consequential modification of the order dated 09.01.2024, whereby the petitioner has been granted interim bail.

Counsel for the petitioner submits that addition of Section 326 will not relate to the petitioner as even according to contents of the FIR, the petitioner was empty handed and has been alleged to have punched the victim.

Notice of motion.

Mr. Tarun Aggarwal, Sr. DAG, Punjab accepts notice on behalf of the respondent-State.

In view of the above, the present application is allowed.

Registry is directed to carry out necessary correction in the head note and prayer clause. It is further ordered that order dated 09.01.2024 shall be read to enure the benefit to the petitioner qua offence punishable under Section 326 of IPC added later on in FIR No.140 dated 30.10.2022, registered at Police Station Sadar Ahmedgarh, District Malerkotla as well”

3. Today, Ld. State Counsel on instructions from ASI Nagar Singh submits that the petitioner has already joined investigation and is no more required for custodial interrogation.

4. Without commenting on the merits of the case and in view of the aforesaid fact, orders dated 09.01.2024 and 20.03.2024 are made absolute, subject to the conditions as enumerated under Sections 438(2) Cr.P.C.
5. This order should not be treated as "blanket" order. It will not be read granting the petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.
6. This order does not in any manner limit or restrict the rights or duties of the police or investigating agency to investigate into the charges against the petitioner.
7. The petitioner shall be deemed to be in custody for the purpose of Section 27 of the Evidence Act in regard to a discovery of facts made in pursuance of information supplied by the petitioner in case the occasion arises.
8. It will be open to the police or the investigating agency to move this Court for a direction under Section 439(2) Cr.P.C. to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.
9. Petition stands disposed off accordingly.

April 01, 2024
Dpr

(PANKAJ JAIN)
JUDGE

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