

CRM-M-2205-2024

-1- 2024:PHHC:054511

206-2 case

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-2205-2024

Date of decision : 23.04.2024

SURJEET @ KALA

...PETITIONER

Versus

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Amit Choudhary, Advocate
for the petitioner.

Mr. Abhinash Jain, DAG, Haryana.

KULDEEP TIWARI.J. (ORAL)

1. On the last date of hearing, i.e. 16.01.2024, the following order was
passed:-

"1. Through the instant petition, as instituted under Section 438 of the Cr.P.C., the petitioner has sought the concession of anticipatory bail, in case FIR No.243 dated 03.09.2023, under Section 3(1) of the Prevention of Damage to Public Property Act, 1984, and, Sections 332, 34, 353, 379, 430, 506 of the IPC, registered at P.S. Sadar Ratia, District Fatehabad.

2. The prosecution agency was set into motion, on a complaint made by one Hawa Singh, son of Balwant Singh, who is stated to be an Executive Engineer in Sub Division, Ratia, Irrigation Department Fatehabad Division. In the night of 02/03.09.2023, he along with Madan Lal-Canal Guard, Mukesh Kumar Beldar, Bhora Ram Beldar with driver- Harish Kumar was on patrolling duty, to check the water theft, and were on their official vehicle bearing registration no. HR-22GV/6767, and when they reached on the burji bearing no.25100/2 Khunan Rajbaha, then, found Toti, Kala and two unknown persons committing water theft by affixing pipe directly in the canal. When they (complainant) tried to stop them, the accused persons came in passion and attacked on the

complainant. Toti, resident of Nagpur gave a blow of kassi on his hand. He (complainant) took a side and the accused broke the side mirror of the driver side with the kassi. He also attacked the colleagues of the complainant and manhandled them and threatened to kill them. The complainant had a narrow escape. On this, the case for the commission of the abovesaid offences was got registered and on registration of the FIR, the case was investigated upon by P.S.I. Ashok Kumar. On the identification of the complainant, the spot was inspected. The vehicle No.HR-22GV/6767 was taken into police custody vide recovery memo. It was got mechanically examined. During the investigation, the accused Karamjeet @ Toti and the other accused Kala was named and the two other unknown accused were identified from the accused Karamjeet @ Toti.

3. Learned counsel for the petitioner submits that no specific role or injury has been attributed to the present petitioner, rather a totally false story has been concocted. Moreover, for the sake of arguments, even if the allegations (supra) are taken to be gospel truth, the same do not constitute any grave offence, rather the same are trivial in nature, i.e. theft of water. Furthermore, although no injury was inflicted to any official of the complainant party, yet the co-accused Karamjeet Singh, who is alleged to have used spade to attack upon the officials concerned, has already been granted the concession of anticipatory bail by this Court on 20.11.2023, therefore, the petitioner, whose case is on better footing than his co-accused, also deserves being treated at par. Lastly, he submits that the petitioner is ready and willing to join the investigation and to cooperate with the investigating officer.

4. Insofar as involvement of the petitioner in other criminal cases is concerned, the instant petition makes revelations that though he is involved in three more criminal cases, however, he is released on bail in all those cases.

5. *Notice of motion for 14.02.2024.*
6. *Mr. Bhupender Singh, DAG, Haryana, waives service of notice on behalf of the respondent-State.*
7. *In the meantime, the petitioner is directed to join the investigation and to appear before the investigating agency as and when called upon to do so. In the event of his arrest, he shall be admitted to interim bail on his furnishing bail bond to the satisfaction of the Arresting/Investigating Officer. The petitioner shall abide by the terms and conditions as envisaged under Section 438(2) Cr.P.C.*
8. *To be heard with CRM-M-58419-2023.”*

2. Today, the learned State counsel on instructions imparted to him by ASI Gurpal, submits that the petitioner has already joined the investigation and he is fully co-operating with the investigation process and he is not required for any further custodial investigation.

3. In view of the specific stand taken by the learned State counsel, the present petition is **allowed** and order dated 16.01.2024, is, hereby, made absolute subject to the condition that the petitioner shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

23.04.2024
monika

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned ? Yes/No
Whether Reportable ? Yes/No