

107 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-3829-2024
Decided on:-24.01.2024

VikashPetitioner

vs.

State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Bhupinder Banga Advocate,
for the petitioner.

HARKESH MANUJA J. (Oral)

1. By way of present petition filed under Section 438 of the Code of Criminal Procedure, 1973, prayer has been made for grant of anticipatory bail to the petitioner in case bearing FIR No.06, dated 07.01.2024, registered under Sections 120-B, 147, 148, 149, 323, 325, 341 and 506 IPC, at Police Station Kasola, District Rewari, Haryana.
2. In the present case, the petitioner has been implicated with the allegations of having badly injured the complainant, who happens to be the Panch of Gram Panchayat, Village Salhawas, District Rewari.
3. Learned counsel for the petitioner submits that all the offences except offence under Section 506 IPC are bailable in nature. He further points that the FIR in question is a result of trivial issue between the parties, who are next door neighbours. Learned counsel further submits that the petitioner has nothing to do with the functioning of the Gram Panchayat and even he is not in any unauthorized occupation of panchayat land. He also points out that in the same incident, the petitioner and one of his accomplice,

namely, Sonu also got fracture on the hands and aggressor is yet to be ascertained, thus, the petitioner deserves the concession of pre-arrest bail.

4. Notice of motion.

5. Mr. Rajiv Sidhu, DAG, Haryana accepts notice on behalf of the respondent-State, whereas Mr. Sandeep Yadav, Advocate appears on behalf of the complainant.

6. The prayer made herein has been opposed at the instance of learned State counsel assisted by learned counsel representing the complainant while submitting that injured/complainant was mercilessly beaten by the petitioner and his accomplice, inflicting multiple fractures on his legs. He further points out that the beatings to the victim was an offshoot of his sincere efforts towards performing of his duties as Panch of the village with an intention to safeguard the panchayat property, which is in unauthorized occupation of close relations of the petitioner.

7. I have heard learned counsel for the parties and gone through the paper book and unable to find any substance in the submissions made on behalf of the petitioner.

8. Broadly, allegations as per the FIR are that Bheem Singh, who is father-in-law of sarpanch of village Salahwas, asked the complainant to sign the proposal of a land of pond, through which he wanted to extend his area of illegal possession. This request was denied by the complainant in his capacity as "Panch", as a consequence of which, the complainant was restrained and given beatings by his relatives and other persons accompanied by them including the present petitioner, who is also closely related to the family of Sarpanch being the collateral.

9. If allegations are believed to be true, this is not a case of mere intimidation, rather intimidation has been subsequently physically effected and the petitioner has borne the brunt of assault by the accused persons. It cannot also be ignored that as per the MLR, the complainant has suffered fractures in both legs.

10. Additionally, allegations in the present case cannot merely be looked into from the angle that the complainant has been beaten severely for not acting as per the wishes of the accused persons. Rather, an attempt has been made to overreach the functioning of the panchayat for self interest, which has a bearing on the institution of self governance and thus it cannot be called a trivial issue.

11. Panchayat is the lowest unit of self governance having a distinct value in the democratic framework. If such instances are allowed to happen at this level, then it has potential to completely bring the system of local governance to halt. If even the members of Panchayat are not allowed to express themselves in a free and fair manner without any interference and intimidation and in case it is done with the help of offensive measures, as resorted to in the present case to silence the individuals and also if hooliganism and such corrupt practices are allowed to prevail then the system would become the victim of muscle power.

12. Recently, the Hon'ble Apex Court in "**Pratibha Manchanda & Anr. versus State of Haryana & Anr**", bearing neutral citation 2023 INSC 612, observed that while granting anticipatory bail, in addition to giving a consideration to the gravity of the offence, its impact on society and the need for a fair and free investigation shall also be considered. Relevant

para from this judgment is reproduced below:

“19. The relief of Anticipatory Bail is aimed at safeguarding individual rights. While it serves as a crucial tool to prevent the misuse of the power of arrest and protects innocent individuals from harassment, it also presents challenges in maintaining a delicate balance between individual rights and the interests of justice. The tight rope we must walk lies in striking a balance between safeguarding individual rights and protecting public interest. While the right to liberty and presumption of innocence are vital, the court must also consider the gravity of the offence, the impact on society, and the need for a fair and free investigation. The court's discretion in weighing these interests in the facts and circumstances of each individual case becomes crucial to ensure a just outcome.”

13. It cannot also be ignored that a complaint in this regard was also given by the complainant along with other punches on the CM window few days back from the date of incident in question, which prima facie shows that his fear was not unfounded. Even this fact did not deter the accused persons and complainant suffered the offensive allegedly by the relatives and accomplices of the family of sarpanch, including the petitioner.

14. Submission by the Id. Counsel for the petitioner regarding the injuries suffered by them and ascertainment of the aggressor, has to be looked into during investigation, which would be further subject to trial, however it also shows that occurrence of the event and the presence of the petitioner on the site are not denied. Even if the petitioner is not involved in the functioning of Panchayat or not in the illegal occupation of the panchayat land, he has been specifically named in the FIR with specific role in the incident.

15. Keeping in view the totality of circumstances, at this stage, no protection can be granted to the petitioner so as to curtail the effective investigation which is required to be given a free hand to verify the

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allegations and counter allegations after taking into consideration all the aspects. Present petition is thereby dismissed.

16. However, it is further clarified that nothing expressed hereinabove shall be construed to be an opinion on the merits of the case.

24.01.2024
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(HARKESH MANUJA)
JUDGE

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