

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.7952 of 2023
Date of Decision: 30.01.2024

Karamjit Singh and another ... Petitioners

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Manoj Kumar, Advocate,
for the petitioners.

Ms. Ruchika Sabherwal, DAG, Punjab,
for the respondent-State.

Mr. Amit Kumar Saini, Advocate,
for the complainant.

MANISHA BATRA, J.

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure by the petitioners seeking anticipatory bail in case bearing FIR No.0023 dated 31.01.2023 registered under Sections 452, 354, 323 and 506 of IPC and Sections 25 and 27 of Arms Act at Police Station Machhiwara, Tehsil Samrala, District Ludhiana.
2. The brief facts of the case relevant for the purpose of disposal of this petition are that on 12.12.2022, a written complaint submitted by the complainant Jaspreet Kaur was received before SSP Khanna, which was marked to DSP, NDPS-cum-Narcotics Khanna. He conducted inquiry into the matter and submitted a report as per which on 15.11.2022 at around 11:30 AM, the present petitioners in order to install a door in the closed alley near the house of the complainant Jaspreet Kaur

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had assaulted her by extending beatings to her and her father and inflicted injuries upon them. Both of them were admitted to Civil Hospital, Machhiwara Sahib and their medico legal examination was also conducted. It was also reported in the inquiry report that ASI Jarnail Singh had recorded the statement of Pragat Singh, father of the complainant only and had initiated action under Sections 107 and 151 of Cr.P.C. against the present petitioners and had not made inquiry about the injuries inflicted upon the complainant, as well as the fact that the petitioners had entered into the house of the complainant as on 15.11.2022 had abused her, extended beatings to her and had insulted her apart from extending threat to kill them. It was concluded on the basis of the inquiry report that a case under Sections 323, 354, 452 and 506 of IPC read with Section 25 or 27 of Arms Act was made out. Accordingly, the aforementioned FIR was registered.

3. The present petition has been filed by the petitioners on the grounds and it has been argued by their counsel that they have been falsely implicated in this case. There is inordinate and unexplained delay in lodging of FIR. The true and material facts had been concealed by the complainant. On 15.11.2022, the father of the complainant had suffered a statement quoting the incident of brick batting and hurling abuses, taking place between the parties and that is why action under Sections 107 and 151 of Cr.P.C. only was initiated against the petitioners. They were arrested in the said case and were even confined in the lock up and thereafter, they were released as per orders of Sub Divisional Magistrate, Samrala. Proceedings against them were disposed of vide order dated 12.01.2023. It is further submitted that the FIR in this case has been lodged with a view to harass

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them by levelling false accusations. Infact, there is dispute between the parties with regard to the passage leading towards the house of the complainant and it is the family of the complainant that has encroached upon 20 feet wide street and due to raising objections by the petitioners, they have been implicated in this case. Infact, the complainant is having quarrel with other people of the locality also. It is further submitted that representations in this regard were submitted by petitioner No.1 to different authorities but no action had been taken. They had a photograph and video clip of the incident showing that it was side of the complainant party who were opening attack upon the present petitioners. With these broad arguments, it is submitted that they deserve to be given concession of pre-arrest bail as neither their custodial interrogation is required nor any recovery is to be effected from them.

4. On the other hand, learned State counsel assisted by learned counsel for the complainant has vehemently argued that the petitioners are politically influential persons and it was under their influence that neither the statement of the complainant-victim who had sustained a head injury in the occurrence, had been recorded on 15.11.2022 nor FIR had been registered and a simple Calendra under Sections 107 and 151 of Cr.P.C. had been lodged which itself revealed that the police had acted in connivance with the present petitioners. The allegations against them are serious. It is argued that the custodial interrogation of the petitioners are required for thorough investigation of the matter. The weapon of offence by which injuries were caused on the person of the complainant and her father as well as the pistol which was alleged to have been aimed at the complainant is yet to be

effected. Hence, it is urged that the petition does not deserve to be allowed.

5. It will not be out of place to mention here that on presentation of the present petition before this Court, a direction was given to the State to get a fresh medico legal report of the complainant prepared as according to her, she had suffered wound having length of about 8 inches on her head whereas, as per the medico legal report dated 15.11.2022, the length of this wound was mentioned to be only as 8cm. The record reveals that a Board was constituted by the Civil Hospital, Ludhiana as per which it, there was no need of any change in the previous medico legal report. A copy of the said report is annexed along with the status report as Annexure R1/T as per which, on the basis of the photograph which shows the injury on the head of the victim complainant, it cannot be described that this injury was caused by a sharp edged weapon and further that no gross bone injury was found.

6. I have heard learned counsel for the parties at considerable length and have gone through the record carefully.

7. On going through the record, it is clearly revealed that infact, the complainant as well as her father had sustained injuries on 15.11.2022. They were medico legally examined on that day but only a case under Sections 107 and 151 of Cr.P.C. had been registered by filing a DDR and the said DDR/Calendra was disposed of shortly thereof. Learned counsel for the respondent No.2-complainant has shown a photograph of the victim wherein a deep injury is shown to be inflicted on her head. Though as per the medico legal report as prepared on 15.11.2022, this injury was only 8 cm long and even as per the Medical Board which has been constituted in pursuance of directions issued vide order dated 16.02.2023, no change is required to be

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made in the observations as made in the medico legal report of the complainant as prepared on 15.11.2022 but this fact cannot be ignored that as per the Annexure R1/T one of the members of this Board was the same doctor who had prepared the medico legal report i.e. Dr. Surbhi Sharma. In this report, no specific observation is made as to how much was the length of the wound which the complainant-victim had sustained on her head nor it is mentioned that it was not possible to assess the length of the said wound which prima facie creates a doubt as to correctness of this report.

8. The petitioners are alleged to have criminally trespassed into the house of the complainant, are alleged to have caused injuries to her father as well as to herself which though opined in the medico legal report as simple, appear to be serious from the photograph which has been shown to this Court. Further, the petitioners are also alleged to have tried to outrage the modesty of the victim and criminally intimidated her. There are specific allegations that the petitioner No.2 had even shown a pistol to the victim. The argument there was delay in lodging of FIR which had not been explained, cannot be stated to be having any substance at this stage in view of the fact that it is clear that the matter was reported to the police on the same very day and it is different matter that a case under Sections 107 and 151 Cr.P.C. only was registered on 15.11.2022 and as per the status report itself, after conducting inquiry on filing of complaint by the complainant on 12.12.2022, the FIR under the aforementioned sections had been registered as against the petitioners. Only because of the fact that the petitioners have joined the investigation once, it cannot be stated that they have become entitled to grant of pre-arrest bail as a matter of right. No weapon of offence

has been got recovered by them at the time of joining investigation. The well settled proposition of law is that while considering an application for grant of anticipatory bail, the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation or tampering with evidence including intimidating witnesses. The powers under Section 438 of Cr.P.C. are to be exercised in extraordinary and sparing circumstances. More so, custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of Cr.P.C. Many useful information can be disinterred during custodial interrogation. It is also a matter of discretion to grant or not to grant pre-arrest bail. Keeping in view the discussion as made above, I am of the considered opinion that no extraordinary or sparing circumstance entitling the petitioners to seek concession of pre-arrest bail has been made out rather their custodial interrogation is required for thorough investigation in the matter by the police as well as for effecting recovery. Accordingly, finding no merit, the petition is dismissed.

30.01.2024
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(MANISHA BATRA)
JUDGE

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