

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM M-9372 of 2024
Date of Decision: 07.03.2024

Sanju ...Petitioner
Versus
State of Punjab ... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Manuj Nagrath, Advocate, for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 438 of the Cr.P.C. with a prayer to grant pre-arrest bail to him in case FIR No.114 dated 15.07.2022 registered under Sections 302, 341, 186, 353, 506, 148, 149 and 120-B of IPC and Section 3 of the Prevention of Damage to Public Property Act, 1984 at Police Station Division No.2, District Police Commissionerate, Ludhiana.
2. The FIR in the present case was registered on the basis of the statement made by Rajvir Singh son of Balwant and the same has been reproduced below:-

“Statement of Rajvir son of Balwant resident of House No. 3170, EWS Colony, Tejpur Road, Ludhiana. Age about 36 years. Mobile No. 8427938225. It is stated that I am resident of the above stated address and work as driver. On 14.07.2022 at around 9.30 p.m., my

brother-in-law Sumit Kumar was standing near the house in his neighbourhood, when Sahil @ Sorpi son of Mitarpal, Ankur and two or three unknown boys came, Sahil @ Sorpi hit Sumit Kumar on the right side of the head with a bottle, due to which Sumit Kumar started bleeding. Then, I and Sawan Kumar took the motorcycle and shifted Sumit Kumar to Civil Hospital Ludhiana for treatment. I took Sumit Kumar and came to the emergency room. Then Sawan Kumar stood outside the emergency room. At about 11.25 p.m., Vishal son of Suresh Kumar, Sahil @ Sorpi son of Mitarpal, Abhishek @ Khaichu son of Pradeep Kumar, Ankur, Manu son of Mandar, Vikas son of Netarpal, Sahil son of Veer Singh and 8-10 other unidentified boys came and all of them were holding kirpans and daatar. They came and surrounded Sawan Kumar. Sawan Kumar rushed to the civil hospital emergency ward to save his life. On this, Vishal, Sahil @ Sorpi, Abhishek, Ankur, Manu, Vikas, Sahil and other unknown boys armed with Kirpans and Dattar entered the emergency room, while chasing Sawan Kumar and raised lalakara, "the brother-in-law has to be killed today". Seeing them, Sawan Kumar tried to close the glass door of the emergency room, then Vishal broke the glass of the door by striking it with

Kirpan. As soon as they entered, Sawan Kumar was attacked with sharp edged weapons and at that time, the work of doctors and nurses was interrupted. Vishal inflicted the Kirpan blows several times on Sawan Kumar, which hit on his neck, head and right hand, then Sorpi, Abhishek, Ankur, Vikas, Sahil, Mannu inflicted blows of the Kirpan and daat held in their hands on Sawan Kumar several times, which hit him on the head, neck and after that all these people escaped with weapons threatening them. Then I and Sumit Kumar arranged an ambulance and brought Sawan Kumar to CMC Hospital Ludhiana. In the emergency, the doctor declared Sawan Kumar dead and got the body placed in the mortuary. The cause of death of my brother-in-law Sawan Kumar is enmity. Sawan Kumar had entered into verbal spat (tu-tu main main) with Sahil @ Sorpi, Anup, vishal etc previously once or twice. They had started nursing a grudge against him. Due to this grudge, all of them agreed to kill Sawan Kumar. The statement was written and heard.

Sd/- Rajvir, Taid-Dharminder son of Dhola (left thumb)".

3. Learned counsel for the petitioner contends that the petitioner has not been named in the FIR nor any allegation of having inflicted any injury on the person of Sawan Kumar, since deceased, is

attributed to him. In fact, the complainant had specifically named Vishal, Sahil @ Sorpi, Abhishek, Ankur, Manu, Vikas and Sahil as the persons, who had caused injuries in the present case and were attributed specific injuries on the person of the deceased. Later on, the supplementary statement of the complainant was recorded on 18.07.2022 and it was alleged that the petitioner was standing outside the hospital, which was a public place. However, the petitioner was not armed with any weapon and had not entered the place, when the occurrence had taken place inside the hospital. Learned counsel has also placed reliance on the CCTV footage and the photographs (Annexures P-4) to contend that the petitioner had not entered the hospital and had not caused any injury to Sawan Kumar, since deceased, and his custodial interrogation will not be required in the present case. Apart from that, the police has already implicated 20 accused in the present case and the petitioner is sought to be arrested in the present case falsely, with an oblique motive.

4. A status report by way of an affidavit of the Assistant Commissioner of Police (Central), Ludhiana, has been filed on behalf of the respondent-State, which has been taken on record.

5. Learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner and submitted that due to previous enmity, serious injuries were caused by the named accused on the person of Sawan Kumar in Civil Hospital Ludhiana. Even, 12 injuries were caused on the entire body, i.e., on

chest, forehead, head, face, shoulder, left and right elbows, right hand, neck and forelimbs in the most brutal manner in the emergency ward of a hospital. Learned State counsel further submits that the petitioner has been nominated as an accused on the basis of the supplementary statement dated 18.07.2022 made by the complainant and the petitioner has been duly identified by the complainant in the CCTV camera footage outside the hospital. He further contends that the present petitioner was constantly in touch with the other accused and had actively participated in the crime and was present in the hospital, where Sawan Kumar was killed in the emergency ward of the hospital. He further contends that even the co-accused, during their interrogation had also disclosed about the involvement of the petitioner in the present crime and his custodial interrogation was required to know the whereabouts of the other co-accused Seema and for taking the investigation to its logical end.

6. I have heard learned counsel for the parties and perused the record.

7. From the submissions made by both the sides, it is apparent that in the present case, all the assailants had entered the emergency ward of the Civil Hospital, Ludhiana and after entering there, they had attacked Sawan Kumar, since deceased, with sharp edged weapons. Further, they not only caused serious injuries to Sawan Kumar but also interrupted the working of doctors and nurses, who were taking care of critical patients in the emergency ward of the

hospital. Even, as per the admitted case of both the sides, the petitioner could be seen present in the hospital premises, at the time of the occurrence. Even, no explanation has been offered by the petitioner with regard to his presence in the hospital as he has not gone to see any patient, who was admitted in the hospital. Apart from that, the other accused also had clearly disclosed during their interrogation that the petitioner was one of the persons, who had conspired with them and was present in the hospital itself, at the time of the commission of the crime. Thus, keeping in view the gravity of the offence, the petitioner is not entitled to concession of anticipatory bail. Apart from that, in the present case, in the considered opinion of the Court, the custodial interrogation of the petitioner will be required to conduct the investigation in the more effective manner and to know the whereabouts of all the other accused, who are involved in the crime.

8. In view of the above, there is no merit in the petition and the same is ordered to be dismissed.

07.03.2024

amit rana

(N.S.SHEKHAWAT)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No