

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9635-2024

Mohit Bathla @ Mohit Kumar Bathla

.....Petitioner

Vs.

State of Punjab

.....Respondent

Reserved On.: 07.03.2024

Pronounced On: 11.03.2024

CORAM: - HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. Jagjit Singh Gill, Advocate
for the petitioner.

Mr. Madhur Sharma, DAG, Punjab.

DEEPAK GUPTA, J.

Prayer in this petition filed under Section 438 Cr.P.C is for grant of anticipatory bail to the petitioner in case FIR No.184 dated 16.10.2023 under Sections 307, 323, 34 of the IPC (Section 120-B of the IPC added later on) registered at Police Station City Fazilka, District Fazilka.

2. It is the third petition for this purpose. The first petition bearing No. CRM-M-568-2024 was dismissed as withdrawn vide order dated 20.01.2024 (Annexure P-6). Learned counsel contends that it was withdrawn because at the subsequent stage, offence under Section 120-B of the IPC was added vide G.D. No.31 dated 10.01.2024. The second petition bearing No.CRM-M-8204-2024 was dismissed as withdrawn vide order dated 16.02.2024 (Annexure P-7) with liberty to file the fresh petition with better particulars, as compromise had been effected amongst the parties.

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3. This Court vide an order dated 27.02.2024 had asked the respondent- State as to why the petitioner had not been arrested despite dismissal of his earlier two petitions.

4. Status report by way of an affidavit of Shri Shubeg Singh, PPS, Deputy Superintendent of Police, Sub Division, Fazilka has been filed on behalf of respondent- State, in which it has been responded that strenuous efforts had been made to arrest the petitioner but he is avoiding his arrest.

5. Coming to the allegations, the FIR was lodged on the complaint of Ajay Kumar, as per which on 15.10.2023 at about 12:45 a.m. he along with Hasmukh @ Kali, Ashok Narang and Vansh Narang were returning on a scooter after completion of the Ramleela show, wherein Hasmukh @ Kali had performed the role of Ravan. A motorcycle with three youths started following the complainant party. The second pillion rider of the motorcycle kicked the scooter of the complainant but Hasmukh @ Kali, who was driving the scooter, prevented its fall. As the complainant stopped at some distance after crossing the house of Hasmukh @ Kali, the three motorcycle riders came there and one of the person wearing check T-shirt inflicted kappa blow on the back of Hasmukh @ Kali, who fell down. The accused then inflicted blows with kappa on other parts of body of Hasmukh @ Kali. Sheenu Narang, sister of complainant, came outside besides other persons of the locality and the assailants fled away. Injured was taken to the hospital. The MLR revealed as many as 06 blunt injuries on the person of Hasmukh @ Kali. FIR under Sections 307, 323, 34 of the IPC was registered.

6. On 07.11.2023, injured Hasmukh @ Kali got recorded his statement revealing the names of the assailants as present petitioner i.e. Mohit

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Bathla @ Mohit Kumar Bathla, Akash Brar and Bitta. As such, these three persons were nominated in the case vide Rapat No.35 dated 07.11.2023. Akashdeep Singh @ Akash Brar was arrested on 10.01.2024 and in his disclosure statement, he disclosed that he along with petitioner and Manjot Singh Bitta had inflicted injuries to Hasmukh @ Kali at the instance of Paras and Baljeet Singh and as such, Paras and Baljeet Singh were nominated in the case vide DDR No.31 dated 10.01.2024 and Section 120-B of the IPC was added.

7. It is contended by learned counsel for the petitioner that petitioner has been falsely implicated; that FIR was lodged against unknown persons; that petitioner has been nominated in this case on 07.11.2023 i.e. after 22 days of the occurrence; that similarly placed co-accused Manjot Singh Bitta has already been given the benefit of interim pre-arrest bail by this Court vide order dated 02.02.2024 passed in CRM-M-5462-2024; that compromise has already been effected between the parties with the intervention of respectables on 07.02.2024, copy of which is Annexure P-8; that petitioner is ready to join the investigation and so, in all these circumstances he be allowed bail.

8. Opposing the bail petition, learned State counsel contends that it is the injured Hasmukh @ Kali, who nominated the petitioner to be one of the assailants; that petitioner was armed with a kappa and inflicted injuries along with co-accused to Hasmukh @ Kali and that his custodial interrogation is necessary to recover the weapon. Prayer is made for rejecting the petition.

9. I have considered submissions of both the sides and have perused the record.

10. Admittedly, FIR was lodged against three unknown assailants. It is

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22 days after the occurrence that name of the petitioner, Bitta and Akashdeep surfaced to be amongst the assailants. Manjot Singh @ Bitta has already been given the benefit of interim pre-arrest bail by this Court vide order dated 02.02.2024 passed in CRM-M-5462-2024 (Annexure P-4). Matter has already been compromised between the parties vide a compromise dated 07.02.2024, copy of which is Annexure P-8, which is duly signed by the complainant Ajay as well as injured Hasmukh @ Kali.

11. Keeping in view all the aforesaid facts and circumstances, but without commenting anything further on the merits of the case, the present petition is hereby accepted.

12. It is directed that in the event of arrest of the petitioner, he shall be released on bail subject to the satisfaction of the Arresting Officer/Investigating Officer. However, it is subject to the condition that he shall join the investigation, as and when required by the IO; that petitioner shall not contact any person associated with the case to influence him during investigation/trial in any manner whatsoever; nor shall leave the country without prior permission of the Court. He shall further comply with the conditions stipulated in Section 438(2) Cr.P.C.

Disposed of.

(DEEPAK GUPTA)
JUDGE

March 11, 2024

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No