

(103)
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
CRM-M-11418-2024
Date of decision :04.03.2024
DEEPAK @ NANNU
... Petitioner

Versus

STATE OF PUNJAB
...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Ankit Gupta, Advocate
for the petitioner.

Ms. Ramta K Chaudhary, DAG, Punjab.

Mr. Sandeep Arora, Advocate
for the complainant.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 438 of Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No.159 dated 24.12.2023 registered under Sections 323, 307, 452, 148, 149 IPC at Police Station Division No.2, District Jalandhar.

2. The present FIR came to be registered at the instance of Priya Puri wife of Ashish Puri and the same reads as under:-

“Statement of Priya Puri wife of Ashish Puri Resident of House No. 250 Pratap Nagar Sodal Road Jalandhar, Stated that I am resident of the said address. I am doing domestic work. On 23.12.2023 at about 10:20 PM that outside my house a Scorpio vehicle color white of which I could only read the number 7777 and I saw that Honey Jain son of Yogesh Jain resident of Mahindru Mohalla Jalandhar, Deepak alias Nannu son of Paramjit Singh, Paramjit Singh all residents of Paratp Nagar, Jalandhar and one unknown person

came out of the vehicle. They all forcibly entered into our house out of which Honey Jain was armed with Iron Rod who gave its blow on my head. Deepak @ Nannu who was also holding an iron rod in his hand hit the rod on the head of my husband Asish Puri son of Vinod Kumar. Meanwhile, when my son Neev Puri came to rescue me and my husband from the said persons, Honey Jain gave blows of Iron rod on the head of my son Neev Puri and Deepak @ Nannu gave iron rod blow on my son which hit on his left eye. Then Deepak @ Nannu's wife Khushi also came inside our house and she forcibly grabbed me from my hair and threw me on the floor and Deepak aka Nannu's father Paramjit Singh raised lalkara not to leave this family today and started beating me while I was lying down. Honey Jain, Deepak alias Nannu and unknown persons/kept hitting my boy Neev Puri on his head with an iron rod with the intention of killing him. The reason of fight is that my daughter Kushi Puri who is working in District Court Jalandhar while she was on her way Honey Jain and Deepak Nannu use to follow her and use to tease her. About 15 days back, Deepak @ Nannu had teased my daughter, for which Deepak Nannu's wife Khushi apologized to us. It is for that reason they all joined hands and forcibly entered the house and attacked with the intention of killing. When we raised a loud cry, all the said persons ran away with their weapons. My relative Amit Puri arranged a ride and got me, my husband and my son admitted to the Civil Hospital Jalandhar for treatment, where we are being treated. Strict legal action should be taken against Honey Jain, Deepak alias Nannu, Paramjit Singh, Khushi wife Deepak Nannu and an unknown person who attacked us. The statement has been written and

read and heard which is correct. Sd/-(English) Priya Puri Attestation Anil Kumar ASI Police Station Division No. 2 Commissionerate Jalandhar. Date 24.12.2023.”

3. The learned counsel for the petitioner contends that he has been falsely implicated in the present case. No offence under Section 307 IPC read with Section 452 IPC was made out and the said sections had been added to make the offence non-bailable. All the injuries were either grievous or simple in nature and no injury had been declared to be dangerous to life. In fact, the petitioner, his father Paramjit Singh and Honey Jain had received injuries at the hands of the complainant party. A complaint had been made to the Investigating Agency regarding the injuries suffered by the petitioner side including the petitioner, his father and one Jatinder Jain. However, the cross-version had not been recorded in that regard. As the petitioner was ready and willing to join investigation, he was entitled to the concession of bail.

4. On the other hand, the learned State counsel along with the counsel for the complainant contend that on the date of the occurrence, the petitioner and the other co-accused entered the house of the complainant and brutally beat up her 14 years old son with an iron rod with an intention to kill him. The reason for the occurrence was that the petitioner used to harass her daughter Kush Puri and would follow her and tease her. Some days prior to the occurrence, the petitioner's wife had also apologized to the complainant party. They, therefore, contend that the nature of the allegations levelled against the petitioner and the manner in which the assault took place clearly established an offence

under Section 307 IPC as it was apparent that Priya Puri, Ashish Puri and Neev Puri had been admitted at the Civil Hospital, Jalandhar in a critical condition. In fact, Ashish Puri and Neev Puri had been found to be unfit to give statement and it was only Priya Puri (complainant) who had given the statement leading to the registration of the FIR. As the offence was *prima facie* established, the recovery of the weapon of the offence was to be effected and the investigation was to be taken to its logical conclusion, the custodial interrogation of the petitioner was certainly required.

5. I have heard the learned counsel for the parties.

6. The Hon'ble Supreme Court in the case of ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr.*** 2022 Live Law (SC) 870 held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the *prima facie* case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

“It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

*We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. **In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.***

7. A perusal of the FIR and the material on record would clearly show that the petitioner and his co-accused brutally assaulted Priya Puri, Ashish Puri and Neev Puri. A perusal of the photographs of the injury suffered by Neev Puri which have been placed on record as Mark-A would establish that he has suffered multiple injuries on the head and it was on this count that the offence under Section 307 IPC was added. Even otherwise, the motive clearly lies with the petitioner for having committed the offence in question along with his co-accused inasmuch as, it was he who used to chase and tease the daughter of the complainant. As the offence is *prima facie* established, the recovery of the weapon of the offence is to be effected and the investigation is to be taken to its logical conclusion, the custodial interrogation of the petitioner is certainly necessary.

8. In view of the aforementioned discussion, I find no merit in the present petition. Therefore, the same stands dismissed.

9. However, the observations made hereinabove are only for the purposes of deciding this bail petition and the Trial Court is free to adjudicate upon the matter on the basis of the evidence led before it uninfluenced by any such observations made herein.

(JASJIT SINGH BEDI)
JUDGE

04.03.2024
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No