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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.32167 of 2024
Date of decision: 09.07.2024

Dinesh Kumar

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Manish Soni, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner under Section 438 of Cr.P.C. seeking pre arrest bail in case arising out of FIR No.42 dated 08.02.2024 initially registered under Sections 147, 149, 323 and 506 of IPC at Police Station Bilaspur, District Gurugram on the allegations that on 07.02.2024, on receipt of an information from Artemis Hospital, Gurugram regarding admission of the injured Vinaypal in the hospital, a police party reached there. The injured was opined to be unfit

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to make statement. On 08.02.2024, his brother Ashok Kumar got recorded a statement that on 05.02.2024, on receiving information that some persons were having an altercation with his brother Vinaypal, he along with his nephew Rakesh had reached at the informed place and had found the petitioner and the co-accused giving kicks to his brother. On seeing him, they had fled from the spot after extending threats. The victim had been rushed to the hospital. Initially FIR was registered under the aforementioned sections. The petitioner was arrested and was extended benefit of bail by the Court of learned Judicial Magistrate, Pataudi vide order dated 17.02.2024. On 05.03.2024, offences under Section 307 and 34 of IPC were added in this case on receipt of information regarding the nature of injuries sustained by the victim Vinaypal. Apprehending his arrest, the petitioner had moved application for grant of pre arrest bail which had been dismissed by the Court of learned Additional Sessions Judge, Gurugram vide order dated 03.07.2024.

2. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He had been extended benefit of bail earlier. The offence under Section 307 of IPC has been wrongly added. His custodial interrogation is not required any more. No recovery is to be effected from him after addition of offence under Section 307 of IPC. Even otherwise, no such injury had been attributed to him which could be

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considered to be dangerous to life. He is ready to join the investigation after addition of the aforementioned offence and as such, it is argued that the petition deserves to be allowed.

3. Notice of motion.

4. Mr. Neeraj Poswal, AAG, Haryana, who has advance notice of the petition appeared on behalf of the respondent-State and Mr. Manoj K.Pundir, Advocate has appeared and filed Vakalatnama on behalf of the complainant and the same is taken on record. Learned State counsel assisted by learned counsel for the complainant submits therein that the victim had sustained injuries on his head. During the course of investigation on receipt of medical opinion regarding the injuries sustained by the victim on his head, offence under Section 307 of IPC has been added. It is argued that since the petitioner along with the co-accused is alleged to have caused serious injuries on the person of the victim, therefore, he does not deserve to be extended benefit of pre arrest bail. Hence, they have argued that the petition does not deserve to be allowed.

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

6. It is revealed from the record that previously a case under Sections 147, 323 and 506 read with Section 149 of IPC had been registered. The present petitioner was arrested and he was extended

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benefit of regular bail by the Court of learned Judicial Magistrate, Pataudi. After adding of offence under Section 307 of IPC, the complainant had moved an application for cancellation of the benefit of bail as granted to the petitioner which had been dismissed by the concerned Magistrate on 18.04.2024. The revision petition filed against the said order is shown to have been allowed vide order dated 07.06.2024 by Additional Sessions Judge, Gurugram (Annexure P-6) and the concession of bail granted to petitioner qua offences under Sections 147, 323 read with Section 149 and 506 of IPC was cancelled. However, so far as the prayer made by the petitioner in this petition is concerned, it is observed that since the petitioner had already joined the investigation and as it is also not the case of the prosecution that any fresh recovery is to be effected from him therefore, his custodial interrogation is not required. Moreso, the allegations in the FIR also do not reveal that any such specific overt act had been attributed to the petitioner which exclusively shows his involvement in the commission of offence under Section 307 of IPC. As such, I am of the considered opinion that it is a fit case for exercising powers under Section 438 of Cr.P.C. and to extend benefit of pre arrest bail to the petitioner. Accordingly, the petition is allowed and the petitioner is ordered be extended benefit of anticipatory bail qua offence under Section 307 IPC subject to his surrendering before the Arresting/Investigating Officer within a period of one week from today

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and joining investigation of this case if required and subject to his furnishing personal as well as surety bonds to the satisfaction of the Arresting/Investigating Officer. The petitioner shall also abide by the conditions as envisaged under Section 438(2) Cr.P.C.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

09.07.2024
manju

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No