

2024:PHHC:095621



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33483-2024
Date of Decision : 24.07.2024

KULDEEP SINGHPetitioner

VERSUS

STATE OF HARYANARespondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Simranjeet Singh Sarwara, Advocate,
for the petitioner.

Mr. Rajesh Gaur, Addl.A.G., Haryana.

KULDEEP TIWARI, J.(Oral)

1. Instant petition has been filed under Section 438 Cr.P.C.for seeking anticipatory bail to the present petitioner in case FIR No.87, dated 09.06.2024, under Section 459 of the IPC, registered at Police Station Naggal, District Ambala (Annexure P-1).
2. The instant FIR has been registered on a complaint made by one Manpreet Singh son of Pala Ram. The relevant extract of the complaint reads as under:-

“Sir, it is requested that I Manpreet Singh son of Pala Ram resident of Indira Colony Alipur Road Ward no. 13 Nanoyla PS Naggal District Ambala and is doing business of readymade clothes. Yesterday dated 08.06.2024 time at around 11 pm Me and my wife Sandeep kaur and daughter Rasmit Insa aged 04 months were sleeping in room and my mother Saroj Bala and my father Pala Ram and my nephew Gurnoor and niece Khushi slept outside in drawing room. Due to intense heat back door of my room was open and main gate was locked. Today dated 09.06.2024 my wife Sandeep Kaur started screaming loudly and I woke up and there were three young men in room whom have covered their faces then one by out

of them had hit with the stick and the other boy hit with a big iron knife on my face and nose and the third boy hit on my legs and when I raise voice of save me save then my father came inside the room by picking up a wooden stick then these persons had hit on the right shoulder of my father with some sharpened edge thing and they had pushed my mother while leaving from there and ran away. And that I have seen that my almira was open and one lakh 90 thousand were kept in it and that the unidentified voice entered into my house at night and stole away my money by inflicting injuries upon me and my father. Strict legal action be taken against those persons. I have submitted the medical report of me and my father to you SD resident of Indira Colony Alipur Road Ward no. 13 Nanoyla PS Naggal District Ambala Mobile no. 90345-31493.”

3. Learned counsel for the petitioner in asking for the relief of

pre-arrest bail, submits that petitioner has neither been named in the FIR, nor any specific role has been assigned to him.

4. He further submits that initially three persons were named in the FIR, namely, Mohit Chauhan, Harimohan alias Zaildar and Rohit Kumar. Subsequently, three more persons namely Parveen Kumar alias Pinna, Gulab and Bunt Ram, were involved in the present FIR, and all the above mentioned persons were arrested.

5. He also submits that the petitioner has been involved on the basis of a disclosure statement of co-accused and only allegation against him is that one of the co-accused had hidden the iron rod, and the share of money in the room of some known person of present petitioner and except that, there is not even a single allegation against the petitioner. Therefore, there is no active role of the petitioner in the commission of alleged crime.

6. On the other hand, learned State counsel has opposed the grant of asked for relief to the present petitioner, and has filed a reply dated 23.07.2024, by way of an affidavit of Sh. Srishti Gupta, ACP, Ambala, today in the Court,

which is taken on record, with a copy thereof supplied to learned counsel for the petitioner.

7. A perusal of the reply (*supra*), reflects that it is a case where three persons at late night entered in the house of the complainant, and caused serious injuries to the complainant and decamped Rs.1,90,000/- alongwith other valuable articles. The relevant extract of the reply is reproduced hereinbelow:-

5. That during investigation of the case, the place of incident has been examined and IO prepared rough site plan of the place of occurrence and statements of witnesses have been recorded. The scene of crime team was called at the spot and the chance print picked up by the scene of crime team from the place of occurrence. The CCTV footage of the surrounding area has been checked.

6. Since no clue was found about the case property and accused of therefore the case file received in the CIA-1, Ambala and the investigation of case has been conducted by ASI Resham Singh. During investigation on 23.06.2024, on the basis of secret information, the accused Mohit Chauhan alias Moti son of Deepa Resident of village Hari Majra, Police Station Ghanaur, District Patiala, Punjab, Harimohan Singh alias Zaildar son of Ishwar Chand, Resident of village Hari Majra, Police Station Ghanaur, District Patiala, Punjab and Rohit Kumar son of Binder resident of Balmiki Mohalla, near Balmiki Mandir, Ghanaur, Police Station Ghanaur, District Patiala were apprehended and served with the notice under section 41-A of Cr. PC, and after due inquiry about the case and on finding sufficient evidences for their arrest in this case, they have been arrested in this case. During interrogation, the above named accused have got recorded their separate disclosure statements as per their own free will and without any pressure, which are signed by the accused and attested by the witnesses. As per the disclosure statement of accused Mohit Chauhan above said, the amount came into the share of Mohit Chauhan and the iron rod used by him in the incident are to be recovered from the room of one known person of Kuldeep alias Gora (accused-petitioner) friend of accused Mohit Chauhan from his room at Sunder Nagar, Himachal Pradesh and the motorcycle make splendor of accused Mohit Chauhan used by him in the said incident, is to be recovered from the parking of Manali, Himachal Pradesh. The other accused arrested have also suffered the disclosure statement on the same line of accused Mohit Chauhan.

7. That thereafter, on 24.06.2024, the above named accused were produced before the Court of Ld. Illaqa Magistrate and with the request for seven days police remand for proper investigation of the case, however, the Ld.Court was pleased to grant four days police remand of accused namely Mohit, Harimohan Singh alias Zaildar and Rohit Kumar.

8. That on 26.06.2024, the above named accused persons have retracted some of part of their earlier disclosure

statement and suffered 2nd disclosure statement and thereafter, in pursuance with the disclosure statement they have demarcated the place of occurrence. The copy of disclosure statement of accused Mohit Chauhan is annexed as Annexure R-1. Thereafter, on 27.06.2024 the accused Mohit Chauhan got recovered Rs. 2,000/- from Almirah lying in his house, which were taken in possession by preparing recovery memo duly attested by the witnesses. The co-accused Hari Mohan got recovered Rs. 1,500/- from the bed lying in house, which were taken in possession by preparing recovery memo duly attested 1,000/- from the bed lying in house, which were taken in possession by preparing recovery memo duly attested by the witnesses. The accused Mohit Chauhan also got recovered Motor Cycle No. PB39L-0261 Make Splendor used in the commission of crime and the same was taken in possession by preparing recovery memo duly attested by the witnesses.

8. That on 27.06.2024, the co-accused Banti Ram son of Resham Lal, Parveen Kumar @ Pinna son of Raj Kumar and Gulab son of Rajinder Singh all resident of Ghanaur, Tehsil wwere apprehended and during interrogation, they also suffered the disclosure statement on the lines of co-accused Mohit Chauhan etc. which were reduced in writing separately, signed by te accused and attested by the witnesses.

9. That on 28.06.2024, the accused Mohit Chauhan, Hari Om and Rohit were sent to judicial custody and the accused Banti Ram son of Resham Lal, Parveen Kumar @ Pinna son of Raj Kumar and Gulab son of Rajinder Singh were taken on 2 days police remand.

10. That on 30.06.2024, in pursuance with the disclosure statement, the accused Banti Ram got recovered Rs. 1,000/- from the bed lying in his house and a Danda used in the commission of present crime underneath the bed. Thereafter, the co-accused Parveen Kumar got recovered Rs. 500/- from Almirah lying in his house and thereafter, the accused Gulab got recover Rs. 1200/-, Danda and Motor Cycle No. PB11CG-3723 used in the commission of crime. The IO took in possession all the above articles by preparing separate recovery memo duly attested by the witnesses. Thereafter, the above accused were produced before the Court of Ld. Illaqa Magistrate and were sent to judicial custody.

8. The reply further reflects the role of the present petitioner in

the alleged crime, which reads as under:-

“11. That it is submitted that on the basis of facts, the accused-petitioner Kuldeep Singh @ Gora has committed the present crime with the connivance of above named accused persons and at the time of he has used Danda for causing injuries on the person of complainant OTAR and his father and the amount came in his share is also recovered from the accused-petitioner, hence, the custodial interrogation of accused-petitioner is required in this case. Moreover, the accused- petitioner has committed grave offence of dacoity and caused injuries on the person of complainant and his father, hence, the accused-petitioner is not entitled for anticipatory bail and therefore, the present application is liable to be dismissed.”

As per the reply gives details about the injuries suffered by the complainant and his father, which has been reproduced hereinbelow:-

“4. That during investigation of case, the MLR of complainant and MLR of his father has been examined and in MLR No. DG/191/24 dated 09.06.2024, the doctor has mentioned total five injuries, injury No. 1 incision of size App 2.5x.5x2.5 CM present at root of nose advised NCCT Face surgeon and ENT opinion, 2) Incision of size App 2.5x.5x.5cm present on right cheek blow the right eye advised NCCT and surgeon opinion, 3) Patient c/o pain in skull region no ext. injury seen advised NCCT Skull and surgeon, 4) Abrasion of size 2x1 cm present on left knee advised X-ray L-Knee and Ortho opinion 5) Abrasion of size 1.5x1 cm present on the right knee advised X-ray R-Knee and Ortho opinion, injury No. 1,2 sharp, 3,4,5 blunt and in MLR No. DG/192/24 dated 09.05.2024 of injured Pala Ram, the doctor has mentioned one injury laceration of size app 3.1.5 cm present on anterior side of right shoulder advised X-ray-right shoulder and Ortho opinion.”

9. In view of the above, it reflects that a specific role is attributed to the present petitioner in the commission of the alleged crime, and seriousness of the offence, this Court finds that the custodial interrogation of the petitioner is required for effecting various recoveries, therefore, the relief of pre-arrest cannot be granted to him.

10. Consequently, the instant petition is **dismissed**.

July 24, 2024
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No