

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

108

CRM-M No.37668 of 2024
Date of decision: 05.08.2024

SURMU

.... Petitioner

Versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. Mitul Singh Rana, Advocate for the petitioner.

Ms. Ruchika Sabherwal, Sr. D.A.G., Punjab.

Mr. V.P. Singh Rathore, Advocate for the complainant.

MANISHA BATRA, J. (oral)

1. The prayer in the instant petition has been made for grant of pre arrest bail in case arising out of FIR No. 94 dated 25.04.2024 initially registered under Sections 326, 323, 526, 148 and 149 of IPC (with offence under Section 307 of IPC having been added later on) at Police Station Dasuya, District Hoshiarpur on the basis of statement recorded by the complainant- Neefu on 19.04.2020, alleging therein that on the same evening, he had gone to attend some relative's marriage at village Kaluwal. At about 9 p.m., when he was attending Mehndi ceremony, the petitioner and co-accused Saifu and Rajha started hurling abuses. They were stopped by the relatives of the complainant from doing so and then they left the spot. Sometime thereafter, they come back accompanied by accused Tajdin who raised an exhortation to catch the complainant and not to spare him. Then the present petitioner and co-accused Rajha caught hold of the complainant whereas, accused Saifu stabbed his abdomen with a *khanjar* with an intention to kill him. The blow hit left side



of his abdomen. Mukhtiar Ali, who was present at the spot, rushed for rescue of the complainant but he too sustained an injury on his shoulder caused by the accused Saifu by striking a blow with *khanjar*. On raising alarm and on seeing people gathering at the spot, the assailants fled away. After registration of FIR, investigation proceedings have been initiated and are underway. Apprehending his arrest, the petitioner moved an application for grant of anticipatory bail which had been dismissed by the Court of learned Additional Sessions Judge, Hoshiarpur vide order dated 23.07.2024.

2. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. There is unexplained delay of 6 days in lodging of FIR. No specific overt act has been attributed to him. In fact, on the fateful night, he had gone to attend the marriage ceremony of his cousin brother when a minor scuffle had taken place between the accused Saifu and the complainant and the petitioner had only intervened to stop the altercation. The petitioner has no criminal antecedents. He is ready to join the investigation. His custodial interrogation is not required and no purpose would be served by detaining him in custody. No recovery is to be effected from. As such, it is urged that he deserves to be extended benefit of pre arrest bail.

3. Notice of motion.

4. Learned State counsel who appeared on advance notice of the petition, submits that there are specific allegations qua the participation of the petitioner in the act of causing injuries to the complainant-victim Neefu on 19.04.2020. As per the allegations, he along with the co-accused Rajha, had caught hold of Neefu when the co-accused Saifu had struck a blow with



khanjar in the abdomen of the victim-Neefu. The injury so sustained by the victim, had been declared to be dangerous to life and offence under Section 307 of IPC had been added. Learned State counsel also argued that there has not been any unexplained delay in lodging of the FIR as the matter had been reported to the Police on the night of occurrence itself i.e. on 19.04.2024 but it was due to the fact that efforts for negotiation for entering into some compromise between the parties, had been going on that a DDR was initially registered and FIR was registered on 25.04.2020. It is argued by him that the complicity of the petitioner in the subject crime has been revealed from the allegations levelled in the FIR. His custodial interrogation is must. No extraordinary and sparing circumstance has been made out thereby, entitling the petitioner to seek benefit of bail. Therefore, it is urged that the petition does not deserve to be allowed.

5. Power of Attorney filed on behalf of the complainant is taken on record.

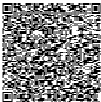
6. I have heard learned counsel for the parties.

7. The petitioner is alleged to have formed membership of an unlawful assembly with the co-accused and some 4-5 unidentified persons and in prosecution of common object of that unlawful assembly, he is alleged to have caused injuries to the complainant-Neefu and injured victim-Mukhtiar Ali. No doubt, the allegations do not show that he had individually assaulted either of the injured but it has come on record that he along with the co-accused Rajha had caught hold of the complainant-Neefu and a blow with *Khanjar* had been struck by the co-accused Saifu in his abdomen and the injury



sustained due to that reason, had been declared to be dangerous to life as per the Medico Legal Report. The complicity of the complainant in the subject crime has been revealed from the allegations in the FIR. Only because of the fact that the FIR had been registered after a gap of 6 days, the prosecution version cannot be disbelieved at this stage. The allegations against the petitioner are serious and grave in nature. For conducting thorough investigation in the matter, the custodial interrogation of the petitioner is must. Moreso, it is well settled proposition of law that arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. The powers of anticipatory bail are extra ordinary and the same are to be exercised sparingly in exceptional circumstances. The judicial discussion conferred upon the Court has to be properly exercised after application of mind as to the nature and gravity of the accusation, possibility of applicant fleeing from justice and other factors to decide whether it is a fit case for grant of anticipatory bail as such grant to some extent interferes in the sphere of investigation of an offence. The Court must be circumspect while exercising such power for grant of anticipatory bail and it should not be granted as a matter of rule and has to be granted only when the Court is convinced that exceptional circumstances exist to resort to that extra ordinary remedy. In the present case, no such exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. As such, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

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



8. Since the main petition has been dismissed, pending application if any is rendered infructuous.

05.08.2024
Jyoti-IV

Whether speaking/reasoned:

Whether reportable

:

Yes/No.

Yes/No

(MANISHA BATRA)
JUDGE