



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

101

CRM-M-39461-2024
DATE OF DECISION: 14.08.2024

GURDIT SINGH

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Manik Makkar, Advocate for the petitioner(s).
Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)1. Relief Sought

The jurisdiction of this Court under Section 438 Cr.P.C., has been invoked seeking the concession for the grant of anticipatory bail to the petitioner in FIR No.64 dated 28.03.2021, under Sections 307,323,324, 148, 149, 506, 120-B IPC, 1860 registered at Police Station Khanna City-2, District Ludhiana.

2. Prosecution story set up in the present case as per the version in the FIR read as under :-

‘Statement of Anil Kumar Sharma son of Dhanpat Rai, Resident of Jagat Colony, Street No.3, Ward No.4, Lalheri Road, Khanna, Mob. 84370-00401. Stated that I am resident of above said address and is working at Municipal Council, Khanna. I have three sons namely Nikhil Sharma, Chirag Sharma and Hitesh Sharma. My younger son namely Nikhil Sharma was sitting in the parking at Guru Amar Dass Market, Khanna.



Rajan Bawa used to threat my younger son Nikhil Sharma in different ways. Due to this, one FIR has already been registered against Rajan Bawa. Today, as daily routine, my son Nikhil Sharma was sitting in the parking of Guru Amar Dass Market, Khanna, then Rajan Bawa along with Monu, both sons of Kashmir Giri, Sanju, Ramma both sons of Billu Khokhe Wala, residents of village Majri, P.S. Sadar Khanna, District Ludhiana, Sunny son of Loon, Shehzad (grandson of Bibi Fatima) both residents of Peerkhana Road, Khanna, Gora, Billa both residents of village Rasulra, P.S. Sadar Khanna, District Ludhiana and 3-4 unknown persons having iron sickles in their hands, iron rods, sword and wooden sticks came and attacked with intention to kill my son Nikhil Sharma and hit him with iron sickles, iron rod and sword on his head, arms and legs, while my son fell down on ground, all of them beat up my son mercilessly. When the people gathered at the spot tried to escape him, the above persons ran from the spot by throwing away their weapons at the spot. I immediately brought my son at Civil Hospital, Khanna from where he was referred to Rajindera Hospital, Patiala. I recorded my statement to you. Legal action be taken against above said person for attacking my son with a motive to kill him. Statement is recorded, listened and admitted as correct. Sd/ Anil Kumar Sharma Verified by Harry Sharma Attested by Akash Dutt, SI SHO, P.S. City-2 Khanna dated 28.03.2021 Police Action-1 SI/SHO along with ASI Sarjangdeep Singh 401/Khanna, ASI Sukhdev Singh 759/Khanna, HC Amarjit Singh 674/Khanna, PHG Karanvir Singh 17253 in government vehicle Sumo No. PB-23-H-3444 being driven by HC Amarjit Singh 674/Khanna was on patrolling present at Main Road Khanna-Ludhiana near Lalheri Chowk, then Anil Kumar Sharma reached and recorded his statement and after recording his statement, the same was read over and explained to him and he signed the same after admitting it correct and his signature was verified by his son Hitesh Sharma and I SI attested the



same. From the statement, offence U/S 307, 323, 324, 148, 149 IPC has attracted and the statement was send through PHG Karanvir Singh 17253 at Police Station to register the case against Rajan Bawa, Monu sons of Kashmir Giri residents of Khattikan Chowk, Khanna, Sanju, Ramma sons of Billa Khokhe wala, residents of village Majri, P.S. Sadar Khanna, Sunny alias Loon, Shehzad (grandson of Bibi Fatima), residents of Peerkhana Road, Khanna, Gora, Billa residents of village Rasulra, P.S. Sadar Khanna and 3-4 unknown persons. Case should be register on the statement and information be given. Information should be given to DCR. Special reports should be issued. I SI along with my colleagues, am going to the spot. Sd/ Akash Dutt SI SHO P.S. City-2 Khanna dated 28.03.2021 within limits of Lalheri Chowk, Khanna. At 7.45 PM. On receiving the statement today, above said case under above said offences has been registered against above said accused. Original statement along with copy of FIR is being sent through above said PHG for the investigating officer at the spot. Special reports through PHG Gurmukh Singh 17926 are being sent to Illaqa Magistrate and senior officers. Information to DCR Khanna is given.'

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case as he was neither named in the FIR nor was present at the spot on the alleged date of commissioning of the offence i.e. 28.03.2021. He would refer to the version narrated in the FIR to strengthen his argument with further submission that subsequently after 3-4 days during the investigation, one Nikhil Sharma gave a statement naming the petitioner instead of one Gurdeep Singh @ Gora. It is on that account the petitioner has



urged for anticipatory bail vehemently stating that he has no role, neither any connection with offence directly or indirectly.

Notice of motion.

On behalf of the State

Learned State Counsel appearing on advance notice on instructions from Baldev Singh opposes the prayer for grant of anticipatory bail by submitting that on 01.04.2021, one Nikhil Sharma- an injured person, named the petitioner stating that instead of Gurdeep Singh @ Gora, it is petitioner who gave gandas blow on the left arm on Nikhil Sharma and on that account, he does not deserve the concession of anticipatory bail at this stage.

He has further argued that recovery of alleged weapon which have been used in the incident is to be recovered and for that reason his custodial interrogation is required.

4. Analysis

Be that as it may, having regard to the factual aspects as has been unfolded before this Court and submissions made by counsel for the petitioner as well as the State Counsel, apart from having gone through the record available before this Court including the version of the FIR wherein petitioner is not named as such but it is an admitted fact that after 4 days of the registration of the FIR i.e. on 01.04.2021, the petitioner was named by injured Nikhil Sharma and also without any cogent material to support the version.

Further, the role of investigating agency is also not inspiring since FIR is registered on 28.03.2021 and till date



neither the investigation has been completed nor all the persons have been taken into custody except four persons by now.

In light of the above, this Court deem it appropriate to accept the petition, in case the petitioner has bona fide intentions and is willing to join the investigation and cooperate for furtherance of the same and would co-operate with the Investigating Officer including surrendering of the weapon so alleged to have been used by him, if, it was so have been used, so that the final report can be submitted by the Investigating Agency in time.

5. **Decision**

Hence, in view of the admitted set of circumstances before this Court, the petitioner is directed to be released on anticipatory bail subject to his joining investigation and reporting to the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the terms and conditions as envisaged under Section 438(2) of Cr.P.C which are reproduced below :-

(i) *a condition that the person shall make himself available for interrogation by a police officer as and when required;*

(ii) *a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;*

(iii) *a condition that the person shall not leave India without the previous permission of the Court;*

(iv) *such other condition as may be imposed under sub-section (3) of Section 437, as if the bail were granted under that section.*

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within one week, the order passed by this Court today shall automatically stands cancelled.

The petition in the aforesaid terms stands allowed.

(SANDEEP MOUDGIL)
JUDGE

14.08.2024
anuradha

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No