

2024:PHHC:122898



**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

281

CRM-M-40893-2024 (O&M)
Date of decision: 17.09.2024

Kapil Yadav**...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Sarvjit Singh Khurana, Advocate
for the petitioner. (Through video conferencing)

Ms. Nidhi Garg, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. Through the instant petition, filed under Section 482 of Bhartiya Nagarik Suraksha Sanhita, 2023 (*for short* 'BNSS'), the petitioner seeks anticipatory bail in case FIR No.0176, dated 13.07.2024, under Sections 115, 118(1), 140(3), 190, 191(3), 324(3), 351(3) of BNS, 2023 [Section 140(3) of BNS, 2023 was deleted and Section 140(4) of BNS, 2023 was added later on] at Police Station Sector 6, Dharuhera, District Rewari.

2. As per the prosecution case, on 13.07.2024, on receipt of an information at the police station regarding admission of the complainant Arjun Singh at Civil Hospital, Rewari due to sustaining injuries in some altercation, a police party had reached there and sought opinion of the doctor as to the fitness of the injured recorded his statement, who stated that he was a driver by profession and used to drive the tractor of Ajit Singh, resident of village Alawalpur for supplying bricks in brick market situated at Sector 4, Dharuhera

2024:PHHC:122898



from the last about 05 months. On the night of 12.07.2024, he along with Guddu @ Gurpreet and Ravi Kumar was sitting in a hutment of the brick market, when the petitioner came there along with two more youths unknown to the complainant. All of them alighted from a car bearing registration number HR-36-AM-6090 and after entering into the hutment, they started assaulting the complainant and by abducting him, they pushed him on the conductor side of the said car. They caught hold of him from behind and while assaulting took him towards some fields, where four youths were already standing with two motorcycles. The complainant was thrown in the fields and then all of them assaulted the complainant by giving kicks, fist blows and striking blows with *dandas*. The petitioner had previously threatened him to not to drive the tractor of Ajit Singh and on that day also, he had proclaimed that they would assault him in future also as he was acting smart. Thereafter, by leaving the petitioner in that place itself, the remaining persons again made the complainant sit in car and while throwing him at Shubhash Chowk, they fled away. He was taken to hospital, where he was treated. He prayed for taking action against the culprits. On the basis of this statement and as per medico-legal report, FIR was registered. Investigation proceedings have been initiated and are under way. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Rewari but the same had been dismissed, vide order dated 30.07.2024.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He is ready to join investigation. His custodial

2024:PHHC:122898



interrogation is not required. No recovery is to be effected from him. All the offences under which he has been booked except offence under Section 140(4) of BNS, 2023, which is *pari materia* to Section 367 of IPC, are bailable in nature. The ingredients for commission of offence under Section 140(4) of BNS, 2023 are not attracted. More so, Ravi Kumar, who is the eye-witness to the alleged incident, has sworn an affidavit (Annexure P-2) to the effect that no such incident had taken place in his presence and the complainant had sustained injuries due to falling down under the influence of liquor. Therefore, it is urged that the present petition deserves to be allowed and the petitioner deserves to be given benefit of pre-arrest bail.

4. Status report has been filed by the respondent-State. Learned State counsel has argued that the petitioner in connivance with co-accused abducted the complainant in order that he might be subjected to grievous hurt or be disposed of and thereby committed a serious offence. His custodial interrogation is required for thorough investigation in the matter by the police. The gravity of the offences is also to be considered. No exceptional circumstance warranting grant of pre-arrest bail has been made in favour of the petitioner. Therefore, it is urged that the petition is liable to be dismissed.

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

6. The petitioner is alleged to have formed membership of an unlawful assembly and in prosecution of the common object of that unlawful assembly, he is further alleged to have abducted the complainant as on 12.07.2024 and assaulted him, so as to put him in danger of being subjected to

2024:PHHC:122898



grievous hurt and is also alleged to have caused grievous hurt to him. The complainant is also alleged to have sustained simple as well as grievous injuries at the hands of the petitioner and co-accused. The allegations against the petitioner are quite serious in nature. So far as the contents of affidavit (Annexure P-2), sworn by alleged eye-witness Ravi Kumar, are concerned, the same cannot be considered at this stage and the veracity thereof has to be assessed by the trial Court on the basis of the evidence to be produced during trial. The well settled proposition of law is that while considering an application for grant of anticipatory bail, the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation or tampering with evidence including intimidating witnesses. The powers under Section 482 of BNSS are to be exercised in extraordinary and sparing circumstances. Custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order of pre-arrest bail. Many useful information can be disinterred during custodial interrogation. It has also to be seen that an order of anticipatory bail does not operate as inroad in the normal legal procedure of criminal cases by the trial Court. It is also a matter of discretion to grant or not to grant pre-arrest bail. Keeping in view the discussion as made above, I am of the considered opinion that no extraordinary or sparing circumstance entitling the petitioner to seek concession of pre-arrest bail has been made out rather his custodial interrogation is required for thorough investigation in the matter as well as for

2024:PHHC:122898



eliciting the names of the co-accused. Accordingly, finding no merit, the petition is dismissed.

8. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

17.09.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>