

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-41180-2024
Decided on 23.08.2024

Sanjay @ Sanjay Kumar

... Petitioner

VS.

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Govind Chauhan, Advocate for the petitioner

Mr. BS Virk, Sr.DAG Haryana

Sandeep Moudgil, J.

1. Relief Sought

The jurisdiction of this Court under Section 482 of BNSS, 2023/ Section 438 CrPC has been invoked seeking the concession for the grant of anticipatory bail to the petitioner in FIR No.339 dated 29.05.2024 under Sections 323/352/506/34 IPC, 1860 (Section 325 IPC was added later on) registered at Police Station Indri, District Karnal.

2. Facts.

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

“To, police post In charge, Police Outpost biyana. Subject Application against Sanjay son Rajkumar, Khemkaur wife Sanjay resident of village Dabkauli Kalan, Tehsil Indri district Karnal, Puran son Darshan and Darshan resident of village Paju Kala Tehsil Assandh district Karnal, Santro Haughter Darshan (Sanjay's sister-in-law) husband of Santro resident Punjab. Sir, the request is that 1. This is that I, Pooja wife Seva Das, resident of village Dabkauli Kalan, Tehsil Indri, District

Karnal and I was married to Seva Das on 10.5.2024. 2. This is that on 23.5.2024, from my maternal side, my mother Kunti, my brother Sachin resident of village Baruki, police station Bhonpa, tehsil Jansath, district Muzaffarnagar and my uncle Rishipal son Nar Singh resident of village Kalsaura had come to our house. The time was around 7- 8 pm when we were sitting in our house. Which house was purchased by my husband under agreement dated 28.6.2021 from Madan Lal son of Roop Chand resident of village Dabkauli Kalan. Photocopy of the agreement is attached.

3. It is that my husband had gone to the village for some work. Then, after consultation among themselves, the above-mentioned people entered my house illegally, armed with sticks and sticks, with the intention of killing us, by forcefully breaking the latch of the gate of our house and the accused Sanjay challenged him to catch all of them and kill them. Either eliminate them or kill them and take over their houses. The accused attacked us and the accused Khemkaur hit my mother Kunti's well-dressed shoulder with a stick and Sanjay hit the iron rod held in his hand on my mother's head and my mother raised her well- dressed hand in defense. The blow of the rod hit my mother's right hand. Then Puran hit my mother with the stick he held in his hand and Sanjay hit my brother on the back of the head with an iron rod. Darshan hit my uncle with the stick he was holding in his hand and Santro and Sanjay hit my uncle on the head with sticks and Santro's husband hit my uncle with sticks on his waist and hips and then dragged my uncle into the street. He was also beaten with sticks and rods at the gate of my house by All the culprits. The culprits also broke two of our motorcycles and caused damage to us. Neighbouring people also gathered in the street and someone made a video of the accused on the spot. In which the accused are clearly seen entering our house and beating us with sticks. Sanjay also threatened the person who made the video. While leaving, the accused left the spot with their

weapons, threatening to kill us and demanding that we be seen. 4. It is after this that we went to Indri Government Hospital. But we were sent to Karnal Medical. We went to Karnal Government Hospital and then they sent us to Kunjpura Government Hospital for medical. Where our medical was done. Whose photocopy is attached. 5. It is that today on 24.5.2024, when we had gone to the Government Hospital Karnal to get our X-ray done, there also the accused Sanjay abused us and threatened to kill us. Whose video is also in our phone. 6. That the above accused Sanjay is a mischievous person. Accused Sanjay had taken Rs 10 lakh from my husband one and a half years ago and had beaten my husband where he asked for it. On which I had given an application regarding this at the police post biyana. Whose number is 255-SD. dated 11.4.2024. My husband has told me all these things. Therefore, you are requested to take the video in our possession and take legal action against the accused keeping the above facts in mind and protect our and property. It will be so kind of you. Date: 24.5.2024 Applicant Pooja Wife Seva Das Resident of Village Dabkauli Kalan. Tehsil Indri, District Karnal. MO No. 9045051683.”

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner has argued that the house in question came into the share of the petitioner and in this regard, under the scheme of the Government, the Sale Deed was executed in favour of the petitioner on the basis of the survey from the year 2020-21 in village Dabkoli Kalan, Tehsil Indri, Block Kunjpura, District Karnal and at that time, no objection was raised from any side. He submits that the dispute has arisen only after the brother of the petitioner, namely, Sewa Dass married to the complainant Pooja on 10.05.2024 and when the complainant came to know

that the agreement of the house was in the name of her husband, then she starting creating dispute.

It is urged that in order to create evidence in her favour, the complainant has lodged the present case only to grab the property of the petitioner and use pressure tactics to vacate the possession of the house and as such, the civil dispute has been given a criminal colour only to falsely implicate the petitioner. He further submits that the police has not registered any case on the complaint of the petitioner to the influence of the complainant even after giving specific complaint dated 23.05.2024.

On behalf of the State

Mr. Virk, Sr.DAG Haryana, appearing on advance notice on instructions opposes the prayer for grant of anticipatory bail on the ground that the petitioner along with co-accused persons had caused injuries to the complainant party with lathies, dandas, and iron rods and as such, the prayer of the petitioner for grant of anticipatory bail deserves to be rejected.

4. Analysis

Be that as it may, after given a thoughtful consideration to the submissions made by counsel for the parties, it appears that in the agreement, the petitioner is the half owner of the property and his name has been registered in the records of the Rural Habitation, Karnal. Moreover, the dispute is inter se family members who are closely related i.e. real brother and sister-in-law (bhabhi) over the property. This Court also cannot be oblivious of the fact that the dispute, if any, regarding property has cropped up only after the marriage between the petitioner's brother and the complainant. That apart, admittedly, there is nothing on record to suggest that

the petitioner inflicted any injury, grievous or life threatening, to the complainant.

It has become a common phenomenon in our country that the penal provisions incorporated by the Legislature to protect the woman are being widely misused to her advantage. Hence, this Court finds no reason to deny the petitioner the concession of anticipatory bail wherein the petitioner has bona fide intentions and is willing to join the investigation and cooperate for furtherance of the same 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.

23.08.2024

V.Vishal

- 1. *Whether speaking/reasoned?*
- 2. *Whether reportable?*

(Sandeep Moudgil)
Judge

Yes/No
Yes/No