

2024:PHHC:112933



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

103

CRM-M No.41828 of 2024
Date of decision: 29.08.2024

Priyanshu ... Petitioner

Vs.

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Shivansh Malik, Advocate,
for the petitioner.

Mr. Arjun Lakhanpal, Addl. AG, Haryana,
for the respondent-State.

Mr. Pardeep Kumar Rapria, Advocate,
for the complainant.
(Through Video Conference)

MANISHA BATRA, J. (Oral)

1. Prayer in this petition has been made by the petitioner seeking benefit of pre arrest bail in case arising out of FIR No.8 dated 11.01.2024 registered under Sections 148, 149, 307, 323, 427, 452 and 506 of IPC (Section 325 of IPC added later on) at Police Station PGIMS, Rohtak, District Rohtak, on the basis of written complaint filed by the complainant Sagar on 11.01.2024 alleging therein that on 10.01.2024 at about 11:45 PM, he was on way to his native place at Village Rewari Kheda when a call was received regarding an altercation having taken

2024:PHHC:112933



place between his brother Kamaldeep and some youths. On receipt of this information, he immediately rushed towards the Paying Guest accommodation of his brother and on reaching there, he found 10-15 youths armed with weapons while fleeing away from the spot. His brother Kamaldeep was seen lying injured in a serious condition. It was also found that the articles kept in his paying guest accommodation had been destroyed. The victim was brought to PGIMS Trauma Centre, Rohtak and then was admitted to KANOS Hospital in a critical condition. While alleging that the petitioner and one Anshul were amongst the assailants of his brother, he prayed for taking action in the matter. After registration of FIR, investigation proceedings have been initiated and are underway. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail which had been dismissed by the Court of learned Additional Sessions Judge, Rohtak vide order dated 03.08.2024.

2. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. The complainant Sagar was not an eye-witness to the alleged incident. The entire incident had been captured in the footage of the CCTV camera installed in the vicinity where the incident had taken place and the same clearly showed that the petitioner had not committed any specific overt act in the occurrence. He was neither armed with any weapon nor he had made any attempt to assault the victim nor he was hostile towards the victim. He was simply a

2024:PHHC:112933



bystander who had watched the incident of the victim being assaulted in his presence. The injuries on the person of the victim have not been attributed to him. His custodial interrogation is not required. He is ready to join the investigation. No recovery is to be effected from him. With these broad submissions, it is urged that the petition deserves to be allowed.

3. Per contra, learned State counsel assisted by learned counsel for the complainant has submitted that the allegations against the petitioner are serious in nature. He was not only named in the complaint but the victim Kamaldeep also, in his statement recorded during the course of investigation has specifically taken the name of the petitioner and has attributed specific act of causing injuries to him along with the co-accused. It is argued that the custodial interrogation of the petitioner is required for conducting thorough investigation in the matter. The victim had sustained serious injuries. No extraordinary or sparing circumstance has been made out warranting exercise of powers for grant of pre arrest bail. Therefore, it is urged that the petition does not deserve to be allowed.

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

5. The petitioner is alleged to have formed membership of an unlawful assembly along with the co-accused and in prosecution of common object of that unlawful assembly, he is alleged to have opened

2024:PHHC:112933



assault upon the victim Kamaldeep and caused serious injuries to him. Though the petitioner has placed on record photocopies of the photographs extracted from the CCTV camera installed in the vicinity to show that the petitioner did not commit any specific overt act and has also placed on record a Compact Disc containing some part of the incident. This CD had been played in the Court. The petitioner has been identified by the learned counsel in this video. Though in this CCTV footage, the petitioner is not shown to be committing any specific overt act in assaulting the victim and some other youths are shown to be doing so but on a perusal of statement of the victim Kamaldeep as recorded during the course of investigation, it is revealed that he specifically stated that the present petitioner and the co-accused had taken him towards the side of vehicles and had thereafter caused injuries to him with different weapons. Only from the extract of the CCTV camera which is of a duration of hardly one minute, no conclusion can be drawn that the petitioner had not participated in the incident.

6. The allegations against the petitioner are serious 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 discretion

2024:PHHC:112933



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 has also to see that an order of anticipatory bail should not operate as inroad in the normal legal procedure of criminal cases by the trial Court. The custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of Cr.P.C. 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.

29.08.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No