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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.43392 of 2024
Date of decision: 26.09.2024

Vikram @ Vikarm Sharma ... Petitioner

Vs.

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Ashish Kumar, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

Mr. Pankaj Rana, Advocate,
for the complainant.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking anticipatory bail in case arising out of FIR No.0214 dated 15.07.2024 registered under Sections 115, 190, 191 (2), 191 (3), 333 and 351 (2) of the Bharatiya Nyaya Sanhita, 2023 (For short “BNS”) (offence under Section 109 of BNS added later on) at Police Station Dadri Sadar, District Charkhi Dadri.

2. The following order was passed on 03.09.2024:-

*“The petitioners are seeking grant of anticipatory
bail in case arising out of FIR No.214 dated 15.07.2024*

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registered under Sections 115, 190, 191(2), 191(3), 333 and 351(2) of the Bharatiya Nyaya Sanhita (BNS), 2023 (offence under Section 109 of BNS added later on) at Police Station Dadri Sadar, District Charkhi Dadri on the basis of statement recorded by the complainant-Sanjay alleging therein that on 14.07.2024, he along with his brother-in-law Shankar had loaded the floor eraser when the co-accused and present petitioner Vikram along with 7-8 unknown youths entered inside their house and opened an attack upon them with the sticks/dandas which they were carrying in their hands and both of them had sustained injuries and were rushed to the hospital. On this complaint, initially a case under Section 115, 190, 191(2), 191(3), 333, 351(2) of BNS was registered and offence under Section 109 of BNS was added later on the basis of medical report of the complainant-Sanjay as one of the injuries sustained on the head of the complainant-Sanjay was opined to be dangerous. Investigation is underway. Apprehending his arrest, the petitioner had moved an application for grant of pre arrest bail which was dismissed by the Court of learned Sessions Judge, Charkhi Dadri vide order dated 30.08.2024.

It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. Offence under Section 109 of BNS had been added after a gap of 17 days from the date of occurrence. The complainant and injured Shankar have sworn affidavits to the effect that the petitioner and co-accused were not amongst the persons who had assaulted them on the fateful night. He is ready to join the investigation. His custodial interrogation is not required and no recovery is to be effected from him.

Notice of motion.

Learned State counsel who has appeared on advance

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notice of the petition, seeks time to file status report in the matter.

At this stage, Mr. Pankaj Rana, Advocate appeared and has filed his vakalatnama(s) on behalf of the complainant-Sanjay as well as victim-Shankar. The same are taken on record. He has submitted that co-accused have been granted benefit of bail vide order dated 23.08.2024 passed by this Court. He also affirms the factum of execution of aforementioned affidavits by the complainant-Sanjay and victim-Shankar. Learned counsel for the complainant/injured has no objection if the petitioner is permitted to join the investigation.

Adjourned to 26.09.2024.

In the meantime, the petitioner is directed to appear before the Investigating/Arresting Officer to join investigation within one week or as and when subsequently required thereafter. In the event of his arrest, the Investigating/Arresting Officer shall release the petitioners on interim bail on furnishing personal/surety bonds to his/her satisfaction. The petitioner shall also abide by the conditions as envisaged under Section 438(2) Cr.P.C.”

3. Today, status report has been filed by the respondent-State, as per which, the petitioner has joined investigation on 06.09.2024. Learned State counsel assisted by learned counsel for the complainant has, however, vehemently argued that keeping in view the nature of the allegations which have been levelled against the petitioner, he does not deserve to be extended benefit of bail. It is submitted that the victim Sanjay had sustained several injuries on his person. Injuries Nos.1 and 2 as found on his person have been opined to be dangerous to life as per the

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opinion of doctor as given recently. These injuries have been attributed to the present petitioner. It is submitted that severity of the allegations and the quantum of sentence are one of the major considerations for denying/granting benefit of pre arrest bail. It is, therefore, urged by them that since the attribution made to the petitioner is serious and grave in nature, therefore, he does not deserve to be extended the benefit of pre arrest bail and the petition filed by him is liable to be dismissed.

4 Learned counsel for the petitioner has asserted that all the co-accused have been extended benefit of bail. His case is at parity with them and hence he too deserves to be given the same benefit.

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

6. The petitioner along with the co-accused is alleged to have formed membership of unlawful assembly and in prosecution of common object of that unlawful assembly is alleged to have assaulted the victim and to have caused injuries to them. Two of the injuries sustained by the injured Sanjay have been specifically attributed to the present petitioner. These injuries have been opined to be dangerous to life. Keeping in view the gravity of the allegations as levelled against the petitioner, quantum of sentence which the conviction may entail and the attendant facts and circumstances, in my considered opinion, the order for grant of interim bail as passed in favour of the petitioner does not deserve to be made absolute despite the fact that he has joined the investigation. Rather his

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custodial interrogation is required for thorough investigation of the matter by the police. More so, no extraordinary or exceptional circumstance has been made out in his favour warranting grant of pre arrest bail. Accordingly, the petition is dismissed.

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

26.09.2024

Parveen Sharma

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No