



CRM-M-43931-2024

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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CRM-M-43931-2024

Date of decision: 23rd October, 2024

Gopal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Baljeet Beniwal, Advocate for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. R.K. Choudhary, Advocate for the complainant.

MANISHA BATRA, J (ORAL):-

Through the instant petition filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS'), the petitioner seeks relief/benefit of anticipatory bail in case FIR No. 406 dated 20.08.2024 registered under Sections 115, 117(2), 190, 191(3), 304 and 351(2) of Bharatiya Nyaya Sanhita, 2023 (for short 'BNS') at Police Station City Palwal, District Palwal.

2. Vide order dated 05.09.2024 passed by this Court, the petitioner was released on interim bail and was directed to join investigation. On 05.09.2024, the following order was passed:-

“Prayer in this petition has been made by the petitioner seeking pre arrest bail in case arising out of FIR No.406 dated



20.08.2024 registered under Sections 115, 117(2), 190, 191(3), 304 and 351(2) of Bharatiya Nagarik Suraksha Sanhita (BNSS) at Police Station City Palwal, District Palwal on the basis of statement recorded by the complainant-Somdutt alleging therein that on 08.08.2024 at about 10 pm, he was present in his hotel namely, HR 30 hotel which he was running in the vicinity of village Alapur, Palwal. When the petitioner along with co-accused reached there, they were under influence of alcohol. All of them had started having liquor in hotel premises also despite the fact that they were specifically refused to do so. Thereafter, accused Manha has demanded a sum of Rs.1500/- from him for which complainant was compelled to give. Sometime thereafter, they had demanded more money and when he refused to do so, he was assaulted by the petitioner and co-accused had taken a sum of Rs. 2500/2600 which was kept in his cashbox. His mobile phone was also damaged. The petitioner and other accused also called 8-10 youths who too had assaulted him and caused four blunt injuries to him. 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, Palwal vide order dated 31.08.2024.

It has been argued by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case. In fact, on the fateful night, the complainant who was also under the influence of liquor had a verbal altercations with co-accused Rahul who sustained injuries at the hands of the complainant. No specific role has been attributed to him qua the injuries sustained by the complainant. There is delay of 12 days in lodging of FIR. No recovery is to be effected from the



petitioner. He is ready to join the investigation. His custodial interrogation is not required.

Notice of motion.

Learned State counsel who has appeared on advance notice of the petition, seeks time to file status report in the matter.

Adjourned to 23.10.2024.

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 petitioner on interim bail on furnishing personal/surety bonds to his/her satisfaction. The petitioner shall also abide by the conditions as envisaged under Section 482(2) of BNSS.”

3. In the status report filed by respondent-State today, it is submitted by learned State counsel that the petitioner has joined investigation on 15.10.2024. It is submitted that as per the CCTV footage taken from the camera installed at the place of occurrence, the petitioner had assaulted the victim in a brutal manner and had caused serious injuries to him. The victim sustained fracture in his leg. Pen drive of the said CCTV footage as submitted by him is taken on record. It is urged that keeping in view the gravity of the offence as alleged to be committed by the petitioner, the order of interim bail does not deserve to be made absolute.

4. *Per contra*, it is urged by learned counsel for the petitioner that custodial interrogation of the petitioner is no more required as no recovery is to be effected from them. He has already joined the investigation and is



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ready to join further investigation. As such, it is urged that the petition deserves to be allowed.

5. The petitioner has joined investigation on 15.10.2024. The pen drive containing extract from the CCTV footage has been seen and though the same shows some persons while assaulting the victim and even the medico legal report also shows that the victim had sustained grievous injuries, however, there is no material on record to show that the offence of snatching (Section 304 BNS) had been committed by the petitioner. The other offence for which he has been booked are bailable in nature. It is debatable as to whether offence under Section 351(2) of BNS has been made out at all or not? The subject offences are triable by the learned Magistrate. As such, I am of the considered opinion that no useful purpose would be served by detaining the petitioner in custody anymore. In view of the above said facts but without commenting on the merits of the case, the present petition is allowed and the order dated 05.09.2024 granting interim bail to the petitioner is made absolute, subject to the conditions laid down in Section 482(2) of the BNSS.

[MANISHA BATRA]
JUDGE

23rd October, 2024

Parveen Sharma

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

: *Yes / No*
: *Yes / No*