

2024:PHHC:172431

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

108

CRM-M-44619-2024
DECIDED ON: 09.09.2024

GURBAAZ SINGH ALIAS BAAZ

.... PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vikramjeet Singh, Advocate, for the petitioner.
Mr. Jaspal Singh Guru, AAG, Punjab.
Ms. Malkit Kaur, Advocate, for the complainant.

SANDEEP MOUDGIL, J

1. RELIEF SOUGHT

The jurisdiction of this court has been invoked under section 482 BNSS,2023, for grant of anticipatory bail in the case arising out of FIR No.330 dated 28.07.2024 registered under Sections 309(4), 310(2), 308(2), 331(6), 111 of the Bhartiya Nagrik Suraksha Sanhita, 2023, registered at Police Station Zirakpur, District SAS Nagar (Mohali).

2. The contents of FIR reads as under :

Copy of Statement:- Statement of Parveen Kumar @ Honey son of Kuldeep Singh, resident of village Datol, Police Station Bangana, District Una, Himachal Pardesh. Presently resident of Hotel G Plaza, Near Patiala Chowk, Zirakpur, Police Station Zirakpur, District S.A.S. Nagar, aged about 34 years, Mobile No. 7696293510. Stated that I am resident of abovementioned address and dealing in Hotel line for last about 4/5 years at Zirakpur and I am running one Hotel G

2024:PHHC:172431

Plaza near Patiala Chowk, second Hotel New Style and third one is Anmol at the backside of Hotel New Style on taking rent at Zirakpur. About 10/15 days ago, Sahil Thakur resident of village Chhat often met me in the market and enquired about the dispute with Firoz from me and asked me step back, otherwise, he will handle with his own way. He told that he is having his group of 40/50 boys in Zirakpur and is also having links with high-ups. He asked me to pay Rs.50,000/- to him every week and if, I do not pay him, then he will get my hotels closed. On 24.07.2024, I was present in my hotel New Style, then about 10:15 P.M., Sahil Thakur, Nikhil resident of Banur and Shama went to my another hotel G Plaza and enquired my whereabouts and after enquiry they went to my another hotel New Style. At that time, I left my hotel for some work. They entered in my hotel New Style and started threatening and scaring my staff and while leaving the hotel, they threatened my staff to warn me to close the hotels, otherwise, I will be treated badly. My staff narrated entire episode to me over telephone. Then, on 25.07.2024 at about 4/5 PM, Sahil Takhur alongwith 19/20 young boys on riding their motorcycles came to my hotel and enquired about me. At that time, they all were having Swords and Sticks and forcibly got closed my all three hotels and said that they are having no fear of police. I got scared and did not inform about the said incident to anyone. They asked that they are having links with high-ups. Yesterday night on 27.07.2024 at about 10:00 PM, I received a telephonic call from my hotel New Style that Sahil Takhur alongwith 25/30 young boys came on motorcycles. They all were having Swords, Sticks and Baseball Bats and they broke glasses, L.C.Ds, A.Cs. and other articles lying in my all three hotels and they have also snatched Rs. 20,000/- from the employee Ravinder Singh, who was standing on the counter of hotel

2024:PHHC:172431

New Style. They have also taken away [D.V.Rs.](#), which were installed in the hotels, with them. / was getting enquiry about them so far and I have come to know that alongwith Sahil Thakur, there were Nikhil Chaudhary resident of Banur, Chetan resident of Dhakoli, Shama resident of Badal Colony, Zirakpur, Baaz resident of Banur, Rana resident of Banur, Vishal resident of Dhakoli, Jassi resident of Dhakoli, Bhaman resident of Banur, Kapil son of Rakam Singh, resident of Sukhna Colony, Zirakpur, Kuldeep resident of Preet Colony, Zirakpur, Rakesh resident of Sukhna Colony, Zirakpur, Deepak resident of Sukhna Colony, Zirakpur, Honey resident Sukhna Colony, Zirakpur, Harpreet Singh ® Honey son of Karnail Singh resident of Preet Colony, Zirakpur, Prince son of Som Nath resident of Sukhna Colony Zirakpur, Lokesh son of Ramesh resident of Sukhna Colony, Zirakpur, Deepak son of Baldev Singh resident of Preet Colony, Zirakpur and 10/15 unknown more young boys. On seeing, I can recognize them. I am going to police station for supply information about that. You met near Kohinor Dhaba, Ambala Road, Zirakpur. I have got my statement record to you and the same is read and heard and is correct. Sd/- Parveen Kumar."

SUBMISSIONS**ON BEHALF OF THE PETITIONER:**

3. It is contended by the learned counsel for the petitioner that the petitioner has been falsely implicated in the present case as no case, as alleged by the complainant, is made out against the petitioner. The petitioner's date of birth is 18.01.2007 and is a student of 10+2 class in A.C.National Public Senior Secondary School, as such, is a juvenile and

2024:PHHC:172431

accordingly, he has nothing to do with the present case. There is a delay of 24 hours (i.e. one day) in reporting the matter to the police as the date of alleged occurrence is 27.07.2024 and the matter was reported and FIR was lodged on 28.07.2024. There is no explanation from the complainant for this delay. There is no specific role attributed to the petitioner in the FIR despite being named by the complainant which shows his false implication by the complainant in the present case.

Notice of Motion

ON BEHALF OF RESPONDENT STATE AND COMPLAINANT.

4. On the asking of the Court, Mr. Jaspal Singh Guru, Assistant Advocate General, Punjab, who is present in Court accepts notice on behalf of the State of Punjab. Ms. Malkit Kaur, Advocate, who is also present in Court puts in appearance, accepts notice and filed her Vakalatnama on behalf of the complainant.

5. It is submitted by the learned State counsel that the complainant has specifically named the petitioner in his complaint and the petitioner is a member of the unlawful assembly and also a participant of incident dated 27.07.2024, as such, the bail application of the petitioner is liable to be dismissed for his own acts and conduct.

It is argued by the learned counsel for the complainant that the petitioner has been specifically named by the complainant as one of the culprit as he was a member of the team of culprits who had attacked the hotel of the complainant and caused damage to the hotel property. Further, the issue of juvenility is debatable at the time of trial. The petitioner is responsible for causing financial and property loss to the petitioner and, as

2024:PHHC:172431

such, the petitioner does not have a case for grant of anticipatory bail and his custodial interrogation will be necessary at this stage.

ANALYSIS AND CONCLUSION

6. Be that as it may, after considering the submissions made herein above and on perusal of the assertions made in the petition as well, this court is of the firm view that custodial interrogation of the petitioner is required particularly in view of the fact that serious overt act has been attributed to the petitioner wherein he is alleged to have been part of the unlawful assembly.

As far the contention of the petitioner minor is concerned, a perusal of the lower court makes it amply clear that no specific evidence stands available to hold the petitioner juvenile.

Even if the date of birth of the petitioner is seen as mentioned in the present petition, which is otherwise subject to evidence, even then the petitioner is below 18 years by few months but he is actively participating in the occurrence of threatening and by taking advantage of his age, after committing heinous crime is not acceptable.

7. Moreover, it is settled proposition of law that power exercisable under Section 482 BNSS,2023, is somewhat extraordinary in character and it is to be exercised in exceptional cases. In State of **Andhra Pradesh vs. Vimal Krishna Kundu, AIR 1997 SC 3589**, Apex Court has held that in case of well orchestrated conspiracy, if the accused is equipped with anticipatory bail order before interrogated by police, would greatly harm the investigation and would impede the prospects of unearthing all the ramification involved in the conspiracy. Similarly, in **Ram Govind**

2024:PHHC:172431

Upadhyay versus Sudarshan Singh, (2002) 3 SCC 598, it has been observed as under:

“3. Grant of bail though being a discretionary order — but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts, however, do always vary from case to case. While placement of the accused in the society, though may be considered but that by itself cannot be a guiding factor in the matter of grant of bail and the same should and ought always to be coupled with other circumstances warranting the grant of bail. The nature of the offence is one of the basic considerations for the grant of bail — more heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter.”

8. In view of the seriousness of the allegations, the custodial interrogation of the petitioner is certainly required to bring the true picture to the ground. Therefore, I find no merit in the petition and the same is hereby dismissed.

9. However, it is made clear that the observation made hereinabove shall have no bearing in the mind of trial Court, while adjudicating the trial.

09.09.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No