

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

127

CRM-M-44982-2024
DECIDED ON: 10.09.2024

VIJAYPAL SINGH

.... PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. B.B.S. Randhawa, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

Ms. L.S.Lakhanpal, 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.06 dated 25.01.2024 registered under Sections 308,323,148,149 IPC, (Section 302 added later on) registered at Police Station Qila Lal Singh, Police Station Batala, District Gurdaspur.

2. The contents of FIR reads as under:-

“Statement of Ramandeep Kaur wife of Jagpreet Singh resident of Nawan Pind Barkiwal, aged about 40 years, Mobile No. 81467-13625. Stated that I am resident of above mentioned address and do household work. I got married to Jagpreet Singh son of Anoop Singh, resident of Village Barkiwal, about 16 years ago. Two children were

born from her womb. A boy and a girl were born. Yesterday on 24-1-2024 time was around 12 O'clock in the afternoon that we had a minor dispute with Agyiapal, Sikandar sons of Gurmit Singh, residents of Nawan Pind Barkiwal, presently, Bhandaal, Ranjit Singh son of Jaswant Singh, Gursher Singh son of Ranjit Singh, Gurdhian Singh son of Sukhwinder Singh and his wife Harminder Kaur @ Sita, residents of Nawan Pind Barkiwwal and at around 9:15 in the evening, I and my husband Jagpreet Singh son of Anoop Singh came to our haveli for milking cattle and my husband was milking the buffalo that Agiyapal Singh son of Gurmit Singh armed with Datar, Sikanderpal Singh armed with Datar, Ranjit Singh armed with Datar, Gursher Singh armed with Datar, Harjinder Kaur @ Sita empty handed, Gurdhian Singh son of Sukhwinder Singh armed with dang, residents of Nawan Pind Barkiwal, Bikramjit Singh residents of Mehta, empty handed, Jugraj Singh son of Satnam Singh, Vijaypal Singh son of Satnam Singh, residents of Basant Kot, empty handed, Harjinder Kaur wife of Makhan Singh resident of Khasawali, empty handed, came and Gursher Singh raised lalkara that catch them, teach him a lesson to fight with us. Meanwhile, all of them attacked my husband Jagpreet Singh with their respective weapons with the intention of killing him and my husband suffered a lot of head and leg injuries. shouted "killed, killed" then all of above said accused persons ran away with their respective weapons. I arranged a vehicle and admitted my husband Jagpreet Singh son of Anoop Singh to Civil Hospital, Batala. Where the doctor referred my husband to Amritsar due to his injuries. We admitted him to Guru Ramdas Hospital, Vallah, Amritsar, where my husband is under treatment. I have seen all this incident with my own eyes. The statement has been got recorded. Action should be taken

*against above, I am aggrieved. sd/-Ramandeep Kaur
above said, attested sd/- Jatinder Singh SI, Police Station
lila Lal Singh dated 25-01-2024.”*

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 this case as no offence is made out against the petitioner. The petitioner, allegedly, was empty handed and no injury is attributed to the petitioner and he has been named only because he is relative of the main accused. The injury found on the person of complainant's husband – Jagpreet Singh cannot be inflicted with empty handed nor is there any description that how the injury was caused, therefore, false implication of the petitioner is apparent. The petitioner approached the Court of Session to seek anticipatory bail and the learned Additional Sessions Judge, Gurdaspur, allowed the bail application vide order dated 03.04.2024, which was confirmed vide order dated 10.08.2024, whereas later the Police have added Section 302 IPC in the case/FIR after an unexplained delay of more than six months.

4. Notice of motion.

ON BEHALF OF RESPONDENT STATE AND COMPLAINANT.

5. 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. Mr. L.S.Lakhanpal, Advocate, who is also present in Court puts in appearance, accepts notice and filed her Vakalatnama on behalf of the complainant.

6. It is submitted by the learned State Counsel that the petitioner was very much present at the time and place of occurrence and the complainant has seen the petitioner with her own eyes, which is the very basis of registration of FIR. Though the petitioner is stated to be empty handed but it does not absolve him from his participation in the occurrence in which the complainant's husband has lost his life, which has resulted into addition of offence under Section 302 IPC. As such, the petitioner does not deserve any leniency in the present case and his bail application is liable to be dismissed.

7. It is contended by the learned counsel for the complainant that the name of the petitioner has been specifically mentioned by the complainant in her statement as one of the participants of the incident. The complainant's husband – Jagpreet Singh was inflicted injuries collectively by several persons and the present petitioner was also part of that unlawful assembly to cause injuries on the person of the complainant's husband. Therefore, the prayer of the petitioner to grant him anticipatory bail under Section 302 IPC is liable to be declined.

ANALYSIS AND CONCLUSION

8. 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.

9. The complainant has attributed no role to the petitioner in her statement but merely on this ground, the petitioner cannot be assumed to be

innocent without custodial interrogation. The petitioner was granted anticipatory bail by the learned Additional Sessions Judge when there was no offence under Section 302 IPC in the case/FIR. But after addition of offence under Section 302 IPC in the case, the entire scenario changed as the offence becomes heinous in nature.

10. 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 ramifications involved in the conspiracy. Similarly, in **Ram Govind 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.”

11. 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.

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

(SANDEEP MOUDGIL)
JUDGE

10.09.2024
Poonam Negi

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