

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

1. CRM-M-50602-2023

Rohit Sood

..... Petitioner

Versus

State of Punjab

..... Respondent

2. CRM-M-50632-2023

Rahul Sood

..... Petitioner

Versus

State of Punjab

..... Respondent

Date of decision: 13.02.2024

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

PRESENT: Mr. Manpreet Singh Dua, Advocate
for the petitioners (in both cases).

Mr. Ishaan Kaushal, AAG, Punjab.

Mr. Arjun Veer Sharma, Advocate for the complainant.

NIDHI GUPTA, J.(ORAL)

1. By this common order two afore-mentioned petitions filed by the petitioners under Section 438 Cr.P.C., seeking anticipatory bail are being disposed of as both have arisen out of the same FIR No. 59 dated 24.06.2023 (Annexure P-1) registered under Sections 323, 324, 354 and 506 read with Section 34 IPC at Police Station Division No. 3, District Police Commissionerate, Ludhaina. For brevity, the facts are being extracted from CRM-M-50602-2023:

2. The aforesaid FIR was registered on the basis of statement of complainant/one of the alleged victims Guddo Devi W/o Jatinder Kumar, which reads as under:-

“Statement of Guddo Devi wife of Jatinder Kumar resident of House No. 432 Street No. 04, Mohalla Maharaja Ranjit Singh Park Police Station Division No. 3 Ludhaina aged about 42 years Mobile:99882-94168. Stated that I am residence of above said address.I am Housewife. On dated 18.06.2023 the time will be of 10:30 PM that my son Yash Chauhan alongwith his friend Aman came to house then Surinder Kumar Sood with intention to kill attacked upon my son with dang when we came out after hearing raula then Rohit Sood, Rahul Sood and Reeta Sood wife of Surinder Kumar with intention to kill attacked upon me and my husband Jatinder Kumar with deadly weapons. Rahul Sood got me fell down and caught me from my hairs and Rohit Sood molested me and violated my modesty. Rahul Sood, Surinder Sood and Reeta gave beatings to my Husband and son with baseball and Dandas mercilessly. When I rescued my husband then Rahul Sood Attacked upon me with Kirpan which hit on my left arm. Seeing people gathered in the street Rohit Sood, Rahul Sood, Surinder Kumar and Reeta Sood went inside their house while giving abuse and threatening. In regard to which we got treatment from Civil Hospital. So far the talk of compromise was going on from the residents of our locality and the same was not settled and even today an attempt was made by the goons sent by them to drive Scorpio upon the activa of my son whereas my son save himself by entering into the street. The video of the same will be produced as and when required....”

3. Learned counsel for the petitioners, *inter alia*, submits that the petitioners have been falsely implicated in the present case. The petitioners and the complainant party are neighbours and the present FIR was registered to wreak personal vengeance due to personal grudge, and the petitioners and their family members have been wrongly roped in the present case. Furthermore, there is delay of 06 days in lodging the FIR, as the incident is alleged to have been occurred on 18.06.2023, whereas the aforesaid FIR was lodged on 24.06.2023. It is further contended that even

the allegation that the complainant side was attacked with deadly weapons is false as the injuries were simple in nature, and out of total 08 injuries, 04 injuries were received by the husband of the complainant, out of which 03 injuries have been declared as simple injuries and 01 has been kept under observation which is on the middle finger of right hand and not on the vital part of the body. The allegations against petitioner-Rohit Sood (in CRM-M-50602-2023) that he tried to outrage the modesty of complainant is not only general and vague, but is an afterthought just to falsely implicate him in the present case. Nothing has to be recovered from the petitioners (in both cases) and they are ready and willing to join the investigation.

4. No other argument is raised on behalf of the petitioners.

5. *Per Contra*, learned counsel for the State assisted by learned counsel for the complainant vehemently opposes the prayer for grant of anticipatory bail to the petitioners submitting that serious allegations have been levelled against both the petitioners. Rohit Sood (petitioner in CRM-M-50602-2023) had molested and tried to outrage the modesty of the complainant who is a 42 years old woman; whereas Rahul Sood-petitioner (in CRM-M-50632-2023), had attacked upon the complainant with deadly weapon i.e. '*kirpan*' which hit on her left arm. Learned counsel for the State further submits that vide order dated 01.12.2023 passed by a co-ordinate Bench of this Court in CRM-M-44921-2023, titled as 'Surinder Kumar vs. State of Punjab', the concession of interim bail earlier granted to the father of petitioners herein was withdrawn and the said petition was dismissed as he misused the concession of anticipatory bail and again harassed the complainant while on bail. Thus,

it is prayed that both the petitions for grant of anticipatory bail may be dismissed.

6. I have heard learned counsel for the parties.

7. Perusal of the order sheets shows that on 16.10.2023 when both these petitions were listed for hearing, following order has been passed by a co-ordinate Bench of this Court in CRM-M-50602-2023:-

“Status report by way of affidavit of Sh. Sukhnaaz Singh, PPS, Assistant Commissioner of Police (Central), Ludhiana filed by the learned State counsel is taken on record. Registry to scan the same and tag at the appropriate place.

Learned State counsel has pointed out that one of the co-accused i.e. father of the present petitioner was granted the concession of interim anticipatory bail. While on interim anticipatory bail he harassed the complainant by going before her sans his shorts. In this regard, FIR No.100 dated 28.09.2023 under Sections 354-A, 509 and 294 of the Indian Penal Code, 1860 has also been registered at Police Station Division No.3, Ludhiana. Learned counsel for the complainant has also pointed out that the said incident has also been recorded on CCTV.

Faced with the same, learned counsel for the petitioner seeks some time to get his instructions. On his request, adjourned to 14.11.2023.”

8. Further, from the perusal of case file, it transpires that the petitioners along with their family members/co-accused armed with deadly weapons have attacked upon the complainant party. Rohit Sood (petitioner in CRM-M-50602-2023) had tried to molest and outrage the modesty of the complainant; whereas Rahul Sood (petitioner in CRM-M-50632-2023) had attacked upon the complainant with deadly weapon i.e. ‘kirpan’. Not even this, their co-accused/father-Surinder Kumar, after grant of anticipatory bail by this Court had misused the same and harassed the complainant again by going before her. The allegations against the

petitioners are serious in nature, therefore, in my view, their custodial interrogation is very much required to elicit the real facts.

9. In case of *State represented by the C.B.I. v. Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful information.

10. In *Jai Prakash Singh v. State of Bihar and another (2012) 4 SCC 379*, Hon'ble Supreme Court held that anticipatory bail can be granted only in exceptional circumstances where the Court is *prima facie* of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty.

11. Accordingly, without commenting on the merits of the matter, however keeping in view the totality of the facts and circumstances of the case, I am of the considered view that the petitioners cannot *prima facie* be said to have been falsely enroped in the crime and their custodial interrogation is necessary in the case and thus, they do not deserve concession of anticipatory bail at this stage. Accordingly, both the petitions are **dismissed**.

12. However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

13.02.2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No