



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-48874-2024
DECIDED ON: 27.09.2024

DEEPAK

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Bipan Ghai, Sr. Advocate with
Mr. Nikhil Ghai and Ms. Malini Singh, Advocate
for the petitioner.

Mr. B.S. Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.280, dated 16.07.2024, under Sections 109(1), 115, 117, 127(2), 3(6), 351(3), 61 of BNS and Section 25(1B)(a) of Arms Act, registered at Police Station Rajendra Park, District Gurugram.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“Statement of Raj Kumar s/o Azad Singh R/o 379/2, Krishna Colony Gurugram, present address 91L, New Colony, Gurugram, Mb . 9818445636. Stated that I am a resident of above said address and do the business as property dealer. Yesterday I along with my associate Sachin s/o Harishchand Gulati was consuming beer in

my office and while talking, the talks regarding Deepak & s/o Balwan Singh resident of Daulatabad came, whereupon I called Deepak @ Mongli on his phone from my mobile phone NO. 9819445636 and asked him to come to my office and we all will have pegs of liquor together. Deepak @ Mongli asked me to send location and said that he is coming. I sent location of my office. After some time, phone call was received on my phone from Deepak @ Mongli's brother Vicky that as to why I was calling his brother. Mongli at late night. At this, I said that we were calling him to talk something because was making phone calls for number of days that the money which I had lost in gambling, I should give it to him and due to this we were calling him because I was to give Rs. 5/7 lacs to Mongli. Then he disconnected the phone. Thereafter I received phone call from Deepak @ Mongli resident of Daulatabad that we will have pegs together there only and talk there. At this, I and my friend sachin resident of Ashok Vihar proceeded to office of Deepak @ Mongli in Uphar Homes in my car NO. HR26BE0036 Fortuner and after about 10 minutes, I and my friend Sachin Gulati reached in office of in Uphar Homes on Dwarka Express Way. Then Deepak @ Mongli and Rajesh @ Ghondar residents of village Daulatabad and their 4/5 accomplices were standing outside the office. As soon as I and my associate Sachin Gulati alighted from the vehicle, Deepak @ Mongli fired two shots in the air from his weapon and said that they will talk while sitting in office. We all went to the office of Deepak @ Mongli and started talking and I asked Deepak @ Mongli bhai to get filled in hukkah. this, Mongli while staring at me said that they will serve hukkah only to me and asked my friend Sachin Gulati to bend on his knees and forcibly made him to sit on his

knees (murga) and Mongli and his accomplices gave beatings to him with one wooden bitta one by one and gave kick blows. When I objected to it, then Deepak @ Mongli said "haramzade the money which you have lost in gambling, you have not returned till date. Today I will teach you a lesson". On saying this by Mongli, Rajesh @ Gondhar said let us shot him dead and Mongli took out weapon from his waist and said kill him. On saying this. Rajesh fired a shot at me with an intention to kill me and fire shot hit on my right foot. After firing a shot at me, they gave me beatings with danda and broke both my feet and after presuming me and my associate dead, fled away from the office and said that if we remained alive, they would kill us and after locking us in office, fled away. Then I made phone call on number 112 and gave information about the incident. Deepak @ Mongli and Rajesh @ Gondhar residents of Daulatabad and their four five accomplices have given beatings to us out of grudge. Legal action be initiated against them and justice be imparted to me. I apprehend danger from them even now. I have got recorded my statement. I have read and heard the same, which is correct. sa/- Raj."

3. **Contention**

On behalf of the petitioner

Mr. Ghai, learned Senior counsel for the petitioner contends that the petitioner as well as the complainant party are well known to each other and are rather friends who were enjoying a get together party wherein liquor was also being served. During the said get together, some altercation took place and out of sudden provocation, a gun shot was fired by co-accused Rajesh which hit at the foot of the injured Sachin.

Mr. Ghai, learned Senior Advocate further submits that no overt act against the petitioner has been put forth by the prosecution so far and even on the narration of the FIR itself, the same fact stands crystal clear. He further seeks dismissal of the instant petition on the ground that the custodial interrogation of the petitioner is not required since nothing is to be recovered from him. He further undertakes that the petitioner is ready and willing to join the investigation as and when required by the investigating officer and wilfully cooperate in the investigation.

On behalf of the State

Learned State Counsel appearing on advance notice, submits that the petitioner was armed with danda and allegations of beating with danda blow on the person of injured Sachin and the complainant Raj Kumar has been attributed to the petitioner. Apart from that, he could not put forth any incriminating material against the present petitioner and is not averse to the undertaking given on behalf of the petitioner to join the investigation and cooperate in furtherance thereof.

4. **Analysis**

Be that as it may, after considering the submissions made hereinabove 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 at this stage is not required, particularly in view of the fact that no serious overt act has been attributed to the petitioner who is otherwise ready and willing to join the investigation.

5. **Decision**

In the light of above, the petitioner is directed to be released on anticipatory bail subject to his joining investigation with the Investigating

Officer concerned within a period of 07 days from today, on furnishing of personal/surety bonds to his satisfaction. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS, which are reproduced below:-

‘When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.’

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within a period of 07 days, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

27.09.2024

Poonam Negi

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No