

2024-PHHC-136042



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-51165-2024
DECIDED ON: 18.10.2024

VICKY ARORA
.....PETITIONER

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. S.P. Singh, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

The jurisdiction of this Court under Section 482 read with Section 528 of the BNSS, 2023 has been invoked seeking the concession, for the grant of anticipatory bail to the present petitioner in FIR No.189 dated 20.09.2024, under Sections 109, 304, 3(5), 61(2) and 238 of BNS Act, registered at Police Station City Moga, District Moga.

2. Facts:-

"Statement of Rajesh Kumar, son of Shivram, son of Ram Charan, resident of Dharam Singh Nagar, Godhewala Railway Quarters, Ward No.8, Moga, age about 26 years, contact number 95921-38459. It is stated that I am resident of the mentioned address and own a medical store located at Joginder Chowk, Moga. On 18.9.2024, my friend, Shamsher Khan, who owns Punjab Medical Store in the village of Dunneke, had left me in his store and went for some work. It was

around 8:15 PM when four unknown individuals arrived on motorcycles. Their faces were covered, and they were armed with dangerous weapons such as baseball bats, swords, and gandas. They entered the store with the intent to assault and rob me. All four individuals attacked me with their weapons, hitting on my head, left arm, right knee, and shoulder. I became unconscious and fell on the ground. The accused individuals took approximately six thousand rupees from the store's cash register and my iPhone 13 Pro before leaving. The entire incident was recorded on the CCTV cameras installed in the store. The footage will be presented if required. I can identify the unknown individuals if they come before me. Afterward, I informed my friends Gurtarun Goel and Shamsheer Khan, the store owner, about the incident over the phone, and they immediately arrived at the scene. They arranged transportation and admitted me to Rajiv Hospital, Moga, where the doctor treated me. I received approximately eleven stitches on my head, and stitches were also applied to my arm, shoulder, and knee. This statement has been written as dictated by me, heard, and confirmed as correct.”

3. Contentions

On behalf of the petitioner:

Learned counsel for the petitioner contends that no injury has been attributed qua the petitioner to have been caused to the complainant or any other person from that side and, therefore, Section 304 of IPC would not be attracted against him. It is also informed to the Court that both the parties have entered into a settlement, which is perused before this Court. He also undertakes that petitioner would join the investigation positively within a period of 10 days from today.

On behalf of respondent-State

4. Notice of motion.

On the asking of Court, Mr. Jaspal Singh Guru, AAG Punjab, accepts notice on behalf of respondent-State and Mr. B.S. Bhalla, Advocate has put in

appearance on behalf of the complainant and does not controvert the fact of settlement, which is taken on record as Document 'A'.

Learned State counsel submits that the commissioning of offence has taken place but could not put forth any incriminating material to show that an injury has been caused by the petitioner or he used any weapon whatsoever.

5. Analysis

Having regard to the submissions made hereinabove, this Court is of the considered view that nothing is to be recovered from the possession of the petitioner except interrogation to extract material information in the commissioning of offence if at all required particularly in the light of the settlement arrived at between the parties, which is dated 17.10.2024 duly signed by Vicky Arora and Rajesh Kumar s/o Shiv Ram with the execution of signatures by two witnesses namely Deep Kumar and Rajat Kumar s/o Surender Pal.

6. Decision

In the light of above, no fruitful purpose would be served by sending the petitioner behind bars, since whatever interrogation is required can be given effect in case, the petitioner joins the investigation. Hence, the petitioner is directed to join the investigation within a period of 10 days and in case of doing so, he shall be released on anticipatory bail subject to furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer.

The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS of 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 do not comply with the aforesaid direction of joining the investigation within 10 days, the order passed by this Court today shall automatically, stand cancelled.

In the afore-said terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

18.10.2024

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