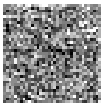


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2024:PHHC:148606



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-56652-2024
DECIDED ON: 14.11.2024

DINESH GARGPETITIONER

VERSUS

STATE OF PUNJAB AND ANOTHERRESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Bikramjeet Singh Jatana, Advocate and
Ms. Janmeet Kaur Jatana, Advocate for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

Mr. Vishal Garg Narwana, Advocate for respondent No.2.

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.0009, dated 05.01.2024, under Sections 323, 325, 148, 149 IPC and Section 304 IPC (added later on), registered at Police Station City Budhlada, District Mansa.

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

“Copy of application No. 302-13-489/PS Dated 20.05.2023, 204/5CDSP-BLD Dated 24.05.2023, 66/5C/PC City BLD Dated 25.05.2023 TO, The Senior Superintendent of Police District- Mansa, Punjab

Subject:-Application Regarding registration of FIR against Prem Chand S/o Hans Raj, Kamlesh Rani W/o Prem Chand, Dinesh Kumar S/o Prem Chand, Khushboo Rani D/o Prem Chand, Bhavnesh Kumar S/o Prem Chand and one unidentified person for committing physical assault/injury on my father which resulted into his death. Respected Sir, With due respect it is submitted that | Varlin Garg S/o late Sh. Ramdhari Garg resident of Kabir Colony, near water works, Budhlada, presently residing at Flat no. 601, Royal Mansions Society, Peer Mushalla, Zirakpur. I am practicing advocate at Punjab and Haryana high court at Chandigarh. I am having 3 brothers also and one of them is a Doctor and another one is a Govt. teacher at Budhlada itself. That my father had made a complaint/statement against the accused persons mentioned in the subject of the present representation. The said accused persons are though our relatives but are/were not into talking terms with us. Sir, on dated 14.01.2023 the aforementioned accused persons barged into the premises that was let-out by us to our tenants and some part of it was/is in our possession. The accused persons without any provocation/instigation started beating my father causing severe injuries to him and his left thigh/hip was got fractured and he was referred to PGI, Chandigarh and during the course of treatment, my father got expired. I was also present at the spot when the accused persons caused injuries to my father and I alongwith one passerby took my father to CHC, Budhlada. However the police officers of P.S- City, Budhlada got recorded the statement of my father on 17.01.2023 at PGI, Chandigarh (Copy attached). It is also apt to mention here that at PGI, my father was got operated not once but 4 times because of the acts and conducts of the accused persons. The said police officers

did not registered FIR against the accused persons despite the fact that specific allegations were made against them in the said complaint. Just to eye wash the matter the police officers only filed the DDR No. 059 dated 17.01.2023 (Copy attached). It is important to mention here that the police officers deliberately removed the name of one of the accused person namely - Bhavesh Kumar from the said DDR and till date despite repeated visits/reminders the police officers had neither registered any FIR against them nor they have been ever made join the investigation the above mentioned accused persons. Sir, the police officers are having hand in gloves with the accused persons as they are delaying the matter on one pretext or another and no action whatsoever till date has been taken against the above mentioned accused persons. The accused persons, since the very inception, are boasting threats to our lives as well as they are having links with high-ups and are very influential persons. Through this representation-cum-communication I request your goodself to kindly take strict action against the accused persons and FIR under relevant sections of IPC may kindly be registered against Prem Chand S/o Hans Raj, Kamlesh Rani W/o Prem Chand, Dinesh Kumar S/o Prem Chand, Khushboo Rani D/o Prem Chand, Bhavnesh Kumar S/o Prem Chand and one unidentified person, for causing physical/assault to my deceased father and Justice be administered to me. I shall be very thankful if the needful is done.yours faithfully, Sd/- Varlin Garg S/o Late Sh. Ram Dhari Garg R/o Flat no. 601, Royal Mansions Society, Peer Mushalla, Zirakpur dated 15.05.2023.”

3. Contention

On behalf of the petitioner

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. He submits that with the intervention of relatives both the parties have settled the matter and terms and conditions regarding their joint property as well as regarding withdrawing of all the pending cases and have entered into compromise on 25.10.2024. He further submits that on 25.02.2023, father of respondent No.2 had expired in PGI, Chandigarh, thereafter, the police obtained the medical record regarding the death of father of respondent No.2 where the cause of death was mentioned as Cardiac Arrest and it was further mentioned that the antecedents cause to be metabolic acidosis, as well as the multiple Myeloma and type-2DM Chronic kidney disease also as other significant conditions contributing to the death but not related to the disease or conditions causing it. It is his further contention that regarding the above mentioned occurrence dated 14.1.2023, a cross-case under Section 452, 323 IPC was registered against respondent No.2 and his mother on the basis of complaint moved by wife of the petitioner. He further contends that the injury on the left thigh of the deceased has been attributed to the present petitioner, moreso, nothing is to be recovered from him, therefore, custodial interrogation of the petitioner is not required.

He further contends that co-accused namely Prem Chand has been granted the concession of anticipatory bail by this Court vide order dated 07.11.2024 passed in CRM-M-55170-2024.

On behalf of the State/respondent No.2

Learned State Counsel appearing on advance notice assisted by learned counsel for respondent No.2, who has filed Memorandum of Appearance today in Court, opposes the prayer for grant of concession of anticipatory bail to the petitioner stating that the deceased remained admitted in the hospital and had undergone four surgeries on account of the injuries inflicted by the petitioner along with other co-accused, and finally he succumbed to the injuries, therefore, prays for dismissal of the present petition.

4. Analysis

Be that as it may, after given a thoughtful consideration to the submissions made, by the counsel for the parties, especially to the extent that the matter has been compromised between the parties, nothing is to be recovered from the petitioner, the only injury on left thigh of the deceased has been attributed to him, hence, this Court finds no reason to deny the petitioner the concession of anticipatory bail, wherein the petitioner has *bona fide* intentions and is willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency within the stipulated time period.

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 one week 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 one week, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

14.11.2024

Poonam Negi

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No