

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

131

CRM-M-56537-2024
DECIDED ON: 13.11.2024

AMANDEEP SINGH ALAIS AMNA

.... PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Aditya Sanghi, Advocate
for the petitioner

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

Mr. P.S. Jammu, Advocate
for the complainant.

SANDEEP MOUDGIL, J

1. RELIEF SOUGHT

This is a petition filed under Section 482 of the Bhartiya Nagrik Suraksha Sanhita, 2023, to seek anticipatory bail to the petitioner in the case arising out of FIR No.107, dated 24.07.2024, Annexure P-2, under Section 109/191(2), 193(3), 115(2), 118(1), 333/109/351(3), 118(2) of the Bhartiya Nyaya Sanhita, 2023 and Section 25 of the Arms Act, 1959, registered at Police Station Rori, District Sirsa, Haryana.

2. The contents of the FIR read as under:-

“Statement of Gurjiwan Singh son of Malkit Singh resident of Village Rohan and aged 30 years, Mobile No. 98171-60724, stated that I am resident of above mentioned address and I am

doing Agriculture work, on dated 20.07.2024 me and my brother Pargat Singh and my mother Jaspal Kaur, my sister-in-law (Bhabhi) Kuldeep Kaur were at home and my friend Gurmeet Singh son of Makhan Singh Resident of Rohan had come to our home, that time at around 09.00 AM, sound of fire short came outside our house, my elder brother Pargat Singh went near the Gate and saw that three vehicles were parked outside our house, persons were sitting inside the vehicles, in the meanwhile me and my friend Gurmeet Singh also came out and saw that in one vehicle Kulwant Singh son of Sukhdev and his brother-in-law Amandeep Singh alias Amna son of Kulwant Singh resident of Behman Kaur Singh Wala Punjab, they were carrying pistol in their hand and in second vehicle Sukhiinder Singh alias Gaggi son of Kulwant Singh resident of Rohan who was carrying wood stick in his hand, Lovepreet Singh son of Joginder Singh Resident of Rohan who was carrying a Sword in his hand, in third vehicle Manpreet Singh son of Joginder Singh R/o Rohan and Joginder Singh son of Gurbaksh Singh resident of Rohan they were carrying Tomahawks in their hands, Kulwant Singh alias Mohni son of Gurmel Singh Resident of Rohan was carrying a Rod in his hand and three - four other persons were there I do not know their names, they were carrying wooden sticks in the hands, all the above named persons upon seeing us momentarily launched an attack upon us, Sukhwinder Singh alias Gaggi gave Sword blow which he was carrying in his hand upon my brother Pargat Singh, which hit upon the right hand of my brother and Lovepreet Singh inflicted injury upon the head of my brother Pargat with a Sword which he was carrying in his hand and Manpreet Singh attacked with Tomahawk which he was carrying in his hand upon the head of my brother and Joginder Singh and Kulwant Singh alias Mohni inflicted injury to my friend Gurmeet Singh with the Tomahawk and Rod which they were carrying in their hands, which hit upon my his right hand and upon the head,

when I started disengaging them then Lovepreet Singh attacked me with a Sword which hit upon the left side of my head and Kulwant singh son of Sukhdev Singh and Amandeep Singh fired direct shots upon us with the pistol which they were carrying in their hands with an intention to kill us, that we survived, all three of us ran and went inside our house. All the above named persons barged into our house and assaulted us inside the house, we raised clamour of killed - killed, then all the persons fled from the spot along with their respective vehicle while boarding their vehicle which were parked in the street and while leaving they threatened us that today you have been left live, in future we shall kill You. The cause of grudge is that many months back arguments were exchanged with Kulwant Singh son of Sukhdev and Joginder Singh, amid that grudge they have inflicted injuries to us and have fired shot with an intention to kill us. Legal action may be initiated against all the above named accused persons, I have recorded my statement to you, read over, which is correct.”

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 the present case whereas no offence is made out against the petitioner and that he was not present at the spot at the time of alleged occurrence. A cross case also stands registered against the complainant side as such this is a case based on version/cross version wherein the cross version stands entered in FIR No.114 dated 14.08.2024 under Section 109(1)115, 117(2), 118(1), 118(2), 126, 190, 191(2), 191 (3) of Bhartiya Nyaya Sanhita, 2023 and Section 25 of the Arms Act, 1959, registered at Police Station Rori, District Sirsa, Haryana. However, the complainant in his statement which is the basis of registration of FIR in this

case has not disclosed that they also caused injuries to the accused side. The complainant has concealed the true genesis of the occurrence to get lodged FIR against the accused party as the complainant side were the aggressors. As such, the petitioner deserves grant of anticipatory bail in the present case.

4. Notice of Motion

ON BEHALF OF RESPONDENT-STATE AND COMPLAINANT

5. Learned State counsel has opposed the bail application on the ground that there are specific allegations against the petitioner to the effect that the petitioner, alongwith co-accused/his brother in law Kulwant Singh, while wielding pistols was sitting in one vehicle and in the second vehicle, the accused namely Sukhjinder @ Gaggi wielding Kirpan and the accused namely Luvpreet Singh wielding sword were sitting and in the third vehicle, accused namely Manpreet Singh and Joginder Singh wielding Kappas and Kulwant Singh wielding an iron rod and three-four other unknown persons wielding lathis and dandas were sitting and they all on seeing the complainant and his two other associates then attacked them with their respective weapons and the complainant and his said two other associates in order to save themselves came inside their house but the accused persons also followed them to their house and gave beatings. Hence, there is clear cut participation of the petitioner in the occurrence as he and his brother in law – Kulwant Singh were wielding pistols and thereafter, entered the house of the complainant and caused injuries to the complainant and his two associates. Accordingly, the petitioner does not deserve any relief from this Hon'ble Court and the present petition is liable to be dismissed as recovery is to be effected from the petitioner for which his custodial interrogation is utmost necessary.

6. Learned counsel for the complainant has also opposed the bail application by submitting that the petitioner has caused injuries to the complainant and his two associates and was also seen wielding pistol while sitting on one vehicle (out of three) before entering the house of the complainant and causing injuries. The petitioner has been specifically named in the FIR and his custodial interrogation is required to recover the weapon of offence.

7. Heard learned counsel for the parties at length.

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 given beatings to the complainant and his associates added with the fact that recovery of weapon is yet to be effected, it becomes indispensable to grant the relief of anticipatory bail to the petitioner.

9. Moreover, it is settled proposition of law that power exercisable under Section 482 BNSS, 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 ramification 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.”

10. 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.

11. 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.

13.11.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

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