2024:PHHC:157362

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-56588-2024 (O&M)
Date of decision: 27.11.2024

Manga Singh @ Mangal Singh **...Petitioner**

Versus

State of Punjab **...Respondent**

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Ajay Pal Singh Rehan, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J. *(Oral)*

1. Through the instant petition, filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 *(for short 'BNSS')*, the petitioner seeks anticipatory bail in case FIR No. 71, dated 02.10.2024, registered under Sections 115(2), 118(1), 190 and 191(3) of Bharatiya Nyaya Sanhita, 2023 *(for short 'BNS')* at Police Station Kotli Surat Mallian, Tehsil Batala, Gurdaspur.

2. Adumbrated facts as emanating from the record are that the aforementioned FIR was registered on the basis of the statement recorded by complainant Deepak Kumar on 02.10.2024 alleging therein that on 25.09.2024 at about 3:00 PM, he along with his father Buta Ram was present in Dhianpur market in connection with some work, when the petitioner along with co-accused reached there and, by making an exhortation that he should be taught a lesson for parking his motorcycle in the street, opened an assault

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upon him. The petitioner struck blows with a *datar* on his head and also caused injuries to his father. The remaining accused also caused injuries to his father and himself. On hearing rescue alarm raised by both of them, some persons reached at the spot and then the assailants fled away. After registration of the FIR, investigation proceedings have been initiated and the same are under way. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Gurdaspur but the same had been dismissed, vide order dated 04.11.2024.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. There is delay of seven days in reporting the matter to the police, which has not been explained by the complainant. The petitioner was not present at the spot at the time of occurrence. The injuries sustained by the complainant are on non-vital part of his body. Offence under Section 118(2) of BNS has not been made out. The petitioner is ready to join the investigation. His custodial interrogation is not required. No purpose would be served by detaining him into custody. Therefore, it is urged that the present petition deserves to be allowed.

4. Status report has been filed by the respondent-State. It is submitted therein and learned State counsel has argued that the petitioner by forming membership of an unlawful assembly with the co-accused had caused simple as well as grievous injuries to the complainant and his father. Specific weapon and injuries have been attributed to the petitioner. One of the injuries sustained by the complainant had been declared to be grievous in nature. The

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weapon of offence is to be recovered from the petitioner. No extraordinary or exceptional circumstance for grant of anticipatory bail has been made out in favour of the petitioner. Hence, it is argued that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

6. The petitioner is alleged to have formed membership of an unlawful assembly with the co-accused and in prosecution of common object of that unlawful assembly is alleged to have caused simple as well as grievous injuries to the complainant and his father with a sharp edged weapon. The complainant had sustained as many as five injuries, out of which, three injuries have been attributed to the petitioner. He also caused two injuries to the father of the complainant. The allegations against the petitioner are quite serious. Weapon used in commission of offence is still to be recovered. The well settled proposition of law is that while considering an application for grant of anticipatory bail, the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation or tampering with evidence including intimidating witnesses. The powers under Section 482 of BNSS are to be exercised in extraordinary and sparing circumstances. More so, custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 482 of BNSS. Many useful information can be disinterred during custodial interrogation. It has also to be seen that an order of anticipatory bail does not operate as inroad

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in the normal legal procedure of criminal cases by the trial Court. It is also a matter of discretion to grant or not to grant pre-arrest bail. Keeping in view the discussion as made above, I am of the considered opinion that no extraordinary or sparing circumstance entitling the petitioner to seek concession of anticipatory bail has been made out rather his custodial interrogation is required for thorough investigation in the matter by the police. Accordingly, finding no merit, the petition is dismissed.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

27.11.2024 **(MANISHA BATRA)**
Waseem Ansari **JUDGE**

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

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