

2024:PHHC:152632



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-57939-2024
DECIDED ON: 21.11.2024

VIPIN KUMAR RAY
.....PETITIONER

VERSUS

UNION TERRITORY CHANDIGARH
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vivek Kathuria, Mr. Rajat Verma, Advocates
for the petitioner.

Mr. Manish Bansal, P.P., U.T., Chandigarh alongwith
Mr. Shaurya Nagpal, Advocate.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

The jurisdiction of this Court has been invoked under Section 482 of BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.205, dated 05.12.2023, under Sections 341, 323, 325, 147, 148, 149, 506 IPC and Sections 25, 54, 59 of Arms Act and later on added Sections 302 and 120-B IPC, registered at Police Station Sector 11 (West), Chandigarh.

2. Prosecution story, set up in the present case as per the version in the FIR read as under :-

‘Statement of Ajay son of Rampal, resident of House/Jhuggi No.1882, Sector 25, Chandigarh, aged 21 years. Stated that I am residing at the above stated address alongwith my family and I am doing private

job. Yesterday i.e. in the intervening night of 3/4.12.2023 at about 1:30 a.m. while driving my silver colour motor cycle No.CH-01-BV-3498, Make Splendor, I was heading towards University while driving my motorcycle on wrong side. Suddenly one black colour vehicle came from my front and dashed against my motorcycle with the result that I fell down on the road. The said black colour vehicle was followed by one Silver colour vehicle which also stopped at the back of said black colour vehicle. Out of both vehicles some boys alighted while carrying rods, dandas, iron garari (which is affixed on front of iron rod). Besides some unknown boys, Dharminder of Nayagaon, Ajay @ Kallu of Sector 25, Chandigarh, Sapati of Dhanas and Sabu of Sector 25, Chandigarh were there, whom I can identify if brought before me. Dharminder gave several danda blows on my left leg as soon as I stood up. Ajay @ Kallu gave danda blows on my right leg due to which I fell down after suffering injuries. Sabu gave danda blows on my right arm and Sapati also caused injuries on my arm. The other boys accompanying them also gave several blows to me with dandas, iron garari and legs and fist blows due to which I suffered injuries on my both arms and legs. Although I raised hue and cry but they continued to beat me. While leaving Ajay @ Kallu and his accomplices threatened me of dire consequences and fled away in their vehicles. As Dharminder, Sapati, Ajay @ Kallu, Sabu and their accomplices have caused injuries to me with dandas, rod and iron garari, therefore, strict legal action may be taken against them. Out of those boys, one boy was carrying pistol, whom I can identify if brought before me. I have got my statement recorded, heard it and the same is correct. Sd/- RTI Ajay. Police Proceedings:- Today myself ASI alongwith Constable Charanpreet No.6267/CP were present in the area of Sector 24, then I received telephonic information from Night MHC, Police Post Sector 24 that near Maharana Partap Hostel accident has taken place and injured person is lying there. On this information myself ASI alongwith above Constable reached the spot i.e. New Maharana Partap Hostel where one accidental motorcycle No.CH01BV3498, Splendor was found and came to know that injured

has been removed Hospital by PCR vehicle. I called police photographer Constable Vikash for getting the spot photographed. No eye witness was found at the spot. The motorcycle was formally taken to the Police Post for further legal action. Myself ASI again received telephonic information from Police Post that patient Ajay son of Rampal, resident of Jhuggi No.1882, Sector 25, Chandigarh has been admitted vide CR No.202305382713 in PGI, Chandigarh. On this information myself ASI alongwith accompanying Constable reached Trauma Centre, Sector 12 where patient Ajay was found admitted. I moved application to concerned Doctor for obtaining opinion regarding fitness of injured Ajay to make statement. However, the Doctor opined him to be "unfit for statement" and also asked for collecting MLR lateron. DDR No.10 Dated 04.12.2023 was lodged in this regard. Thereafter I again reached PGI Trauma Centre for verifying facts of DDR No.10 dated 04.12.2023 alongwith Constable Sachin No.416/CP where injured Ajay son of Rampal got his above statement recorded. The above statement, verification of facts and Medical reports disclosed commission of offences Under Sections 341/323/325/147/148/149/506 PC and U/s 25/54/59 Arms Act, therefore, tehrir for registration of FIR under Sections 341/323/325/147/148/149/506 IPC and U/s 25/54/59 Arms Act against Dharminder, Ajay @ Kallu, Sabu, Sapati and their accomplices, is being sent to Police Station through Constable Sachin No.416/CP. After registration of FIR its number may be made known. Myself ASI, am busy with investigation at the spot. From Trauma Centre, PGI, Chandigarh at 23:20 hrs Sd/- ASI Jaimal Singh, PP 24, Chandigarh dated 04.12.2023. Today on receipt of tehrir in police station after registration of FIR, original tehrir along with copy of FIR through above Constable is being sent to ASI Sahib on the spot and copies of FIR will be presented before higher officials. Note:- The parties have a right to free legal aid and they or any of them, if required, can avail free legal aid from District Legal Services Authority, 2d Floor, Service Block, District Courts Complex, Sector 43, Chandigarh. Help line No.8427566990". '

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner has been nominated as an accused in the instant FIR only on the basis of statement made by the brother of the deceased under Section 161 Cr.P.C., who is alleged to be the eye-witness to the occurrence. Apart from above, there is no other incriminating material with the investigating agency to connect the petitioner with the alleged offence, as has been averred by learned counsel for the petitioner. He further contends that the co-accused, namely, Sachin Sukla @ Sachin Kumar, Rahul Kumar alias Rahul Chawla and Rajinder Alias Goldy have already been granted the concession of anticipatory bail by this Court vide orders dated 01.10.2024, 24.09.2024 and 19.10.2024 passed in CRM-M-49195-2024, CRM-M-47965-2024 and CRM-M-51680-2024 and respectively.

On behalf of the State

Learned State Counsel appearing on advance notice, does not controvert that apart from the statement made by brother of the deceased, there is no other incriminating evidence against the present petitioner.

4. Analysis

Be that as it may, after giving a thoughtful consideration to the submissions made by counsel for the petitioner, particularly to the effect that no specific role has been attributed to the petitioner and no incriminating material is coming forth qua the petitioner; main accused persons, who had inflicted injuries, have already been granted the concessions of anticipatory bail, this Court finds no reason to deny the petitioner the concession of anticipatory bail wherein the petitioner has bona fide intentions and is ready and willing to join the investigation

and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency in time.

5. Decision

Hence, in view of the admitted set of circumstances before this Court, the petitioner is hereby directed to be released on anticipatory bail subject to his joining investigation and reporting to the Investigating Officer concerned within a period of 10 days from today, on 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 as reproduced below :-

- (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 ten days, the order passed by this Court today shall automatically stand cancelled.

The petition in the aforesaid terms stand allowed.

(SANDEEP MOUDGIL)
JUDGE

21.11.2024

Meenu

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