

2024:PHHC:154008



131

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-58386-2024
DECIDED ON: 22.11.2024

HARPINDER SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vipin Mahajan, Advocate
for the petitioner.

Mr. Jasjit Singh Rattu, DAG Punjab.

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.29, dated 17.06.2024, under Sections 306, 34 of IPC, 1860, registered at Police Station Dorangla, District Gurdaspur.

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

“Statement of Kuldeep Kaur wife of Kashmir Singh, resident of Village Sanghor aged about 40 years, Police Station Dorangla (Mobile No.62809-92269), Aadhaar No.96190966367. Stated that I am resident of aforesaid address and is a household lady. I have two sons; elder one Pargat Singh has gone to Saudi Arabia and younger one Jashanpreet Singh has passed +2 examination and is aged about 18 years. My husband Kashmir Singh is a truck driver and is presently lodged in Kathua Jail in some case. On

02.06.2024, I was doing my household work and the time was around 12.30 PM, I received phone call of my son Jashanpreet Singh that on 01.06.2024 his fight took place with Harpinder Singh son of Gurnam Singh, Bunty son of Piara Singh, Laddi, resident of Chack Raja and Jobanpreet Singh son of Jinder, resident of Khushipur in the evening and they threatened to eliminate him. Being fed up, I have consumed some poisonous medicine. At present, I am at my tubewell and is suffering from pain in my stomach. On hearing the phone call of my son, I alongwith my father Nirmal Singh, mother Paramjit Kaur, residents of Khushipur who have come to meet me alongwith Kulwinder Kaur daughter of Mohan Singh, daughter of my brother-in-law (Jeth), sister-in-law (Jethani) Harjinder Kaur wife of Mohan Singh, resident of Sangour reached at the tubewell where my son was lying alongside wall of the tubewell. I along with my father Nimal Singh and Jeth Mohan Singh go admitted my son at Obero Hosai, Gurdaspur wherein initial treatment was given to me and on 03.06.2024 we brought him back to our home in village Sangaur. Again on 04.06.2024 due to effect of medicine, pain started in the stomach of my son and we again took him to Oberoi Hospital, Gurdaspur where he was provided treatment and on 05.06.2024 doctor sahib asked to take our son Jashanpreet Singh to some other hospital. We after arranging the vehicle took our son to Atlatic Hospital, Amritsar where my son is under treatment and is serious. On account of fight of the aforesaid persons with my son Jashanpreet Singh, they threatened my son Jashanpreet Singh and being fed up my son took poisonous substance. Legal action be taken. My husband Kahsmikr Singh was also present with me in the hospital. Statement has been got recorded, which has been read over to me and the same is correct. Sd/- Kuldeep Kaur in Punjabi. Witnessed, Kashmir Singh. Attested/- ASI Gurnam Singh No. 126/Dorangla.”

3. Contention

On behalf of the petitioner

Learned counsel for the petitioner submits that the registration of the instant FIR is an afterthought while referring to the statement made by the complainant, which is totally contrary as per the version of the FIR in the form of questionnaire put forth by the Investigating Agency (Annexure P-5) to the following questions, which read as under:-

Q. On 02.06.2024, when you took him to Oberoi Hospital, whether the hospital people reported about this to the police?

Ans. I had requested hospital people not to inform the police.

Q. Why did you restrain the hospital from informing the police?

Ans. At that time, I was not having any information about my son having consumed poison, therefore, I requested hospital people not to inform the police.

Q. Had you not restrained the hospital people from informing the police, on the same day itself Jasanpreet Singh would have got recorded his statement to the police that he had a fight with Harpinder Singh son of Gurnam Singh, Banti Kumar son of Piara, Ladi residents of Chakraja and Jobanpreet Singh son of Jinder Singh resident of Khushipur, and they are again threatening him with elimination. In this regard, what you want to say?

Ans. That Jasanpreet Singh had not informed me anything about the fight. On 06.06.2024, also Jasanpreet Singh did not inform me anything about the quarrel. I was informed by his friends namely Sajan resident of Chakraja, Mansu resident of Sanghor that he had a fight with Harpinder Singh son of Gurnam Singh, Banti Kumar son of Piara, Ladi residents of Chakraja and Jobanpreet Singh son of Jinder Singh resident of Khushipur. It was thereafter, Jasanpreet Singh informed me about the dispute

Q. On 03.06.2024, you took Jasanpreet Singh from hospital to back home as he had recovered. Thereafter, when you took him to Abrol Hospital, Gurdaspur?

Ans. On 03.06.2024, Jasanpreet Singh had recovered a bit, but because of money constraints, hospital people asked me to take him again. Therefore, I got him discharged from the hospital and brought him back home. Thereafter on 04.06.2024, at around 12/12:30 pm, his health deteriorated again on account of which he was again admitted in the hospital.

Q. Then on which date, you took Jasanpreet Singh to ATLASTIC Hospital, Amritsar?

Ans. On 05.06.2024, when health of Jasanpreet Singh worsened, because of which Oberoi hospital people referred him to some other hospital. Therefore, I took my son Jasanpreet Singh to Atlastic Hospital, Amritsar on 05.06.2024."

He further submits that the deceased was discharged from the hospital on 03.06.2024, but no statement of the deceased was recorded, as is evident from the GD No.27 dated 12.06.2024 (Annexure P-3), which reads as under:-

"Time is 21:30 by watch. I ASI called from my mobile to Doctor Sahib of Atlastic Hospital Mobile No. 73553-97160 at talk regarding patient Jashanpreet Singh. The doctors told that the condition of Jashanpreet

Singh has improved and he is under treatment but sometime facing difficulty in breathing. In this regard, the conversation has also held with Kashmir Singh father of Jashanpreet Singh who also told that patient is better. In case any statement is to be recorded we shall inform you. The SHO Sahib was informed on telephone about the aforesaid facts.”

On behalf of the State

Learned State Counsel appearing on advance notice, seeks dismissal of the instant petition referring to a hand written note by the deceased as well as a video clip prepared by maternal aunt of deceased, wherein he is making an allegation against present petitioner and other co-accused persons.

4. Analysis

The court has considered the submissions made by both parties and is examining the role of the petitioner. The court has questioned the date of the video clip, which is in the possession of the Investigating Officer on a pendrive and is dated June 10, 2024. This date is later than the discharge date from the hospital, which was June 3, 2024. However, the exact date of the investigation has not been specified, and it is unclear when the Investigating Officer conducted the inquiry, as stated by SI Davinder Kumar to the State counsel.

In the light of above, the provocation of any nature before the commissioning of offence is prima facie not evident, this Court finds no reason to deny the petitioner the concession of anticipatory bail wherein the petitioner have 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, 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

22.11.2024

Meenu

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