

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-58235-2024
DATE OF DECISION: 21.11.2024

VEENA RANI AND ORS

...PETITIONERS

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Amitabh Tewari, Advocate
Mr. Dilmrig Nayani, Advocate
Ms. Mehak Arora, Advocate for the petitioner(s)
(through Hybrid Mode)
Mr. Jaspal Singh Guru, AAG, Punjab.
Mr. Luvinder Sofat, Advocate for the complainant.

SANDEEP MOUDGIL, J (ORAL)**1. Relief Sought**

This petition has been filed under Section 482 of BNSS, 2023 for grant of anticipatory bail to the petitioners in FIR No. 142 dated 03.11.2024 under Sections 109, 115(2), 126, 351 and 3(5) of the BNS registered at P.S. City Samana, District Patiala, Punjab.

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

‘At present, it is entered that a copy of Rapat No.02 dated 03.11.2024 Roznamcha, Police station City Samana. Statement of Sansari Ram son of Rameshwar Dass, resident of Anand Colony, Samana, Police station City Samana, District Patiala, aged about 54 years, mobile No.98888-21709 against Jagdish Kumar alias Kala son of Bhola Ram, Veena Rani wife of Jagdish Kumar alias Kala, Lavisha daughter of Jagdish Kumar alias Kala, Nikhil Kumar son of Jagdish Kumar alias Kala, residents of Waraich Colony, Samana, Police station City Samana,



District Patiala under Section 109, 115 (2), 126, 351, 3 (5) BNS written by ASI Rajbir Singh, 850/PTA Police station City Samana, has been received through Senior Constable Satvir Singh, 3344/PTA at the Police station for the registration of the case. The contents of which are as under: It is stated that I am the resident of the above address. I run an electric shop near Tehsil Road, Samana. Today, I alongwith my brother Luv Kumar was present at my shop. One of my shop is opposite the Shiv Mandir, Tehsil Road. I have given this shop on rent to Chandan Kumar son of Rajesh Kumar, resident of Samana. Today at about 12.30 PM, I received a phone call from my tenant Chandan Kumar that in front of your shop, Jagdish Kumar alias Kala of Karyana Store is taking possession by putting a pipe. Then I took my brother Luv Kumar and immediately reached at the site. Then we entered the shop and asked the detail from the tenant Chandan Kumar. He told that our neighbourer of Karyana Store is taking the possession by putting a pipe in front of our shop. We came out and asked him as to why he is doing this wrong act. To the contrary Jagdish Kumar started abusing us. In the Karyana Store, at that time Veena Rani wife of Jagdish Kumar, Nikhil Kumar son of Jagdish Kumar, Lavisha daughter of Jagdish Kumar were sitting. Upon hearing the noise, they came out. At that time, Jagdish Kumar alias Kala was carrying some sharp edge thing. He hit straight in my head, which hit in my forehead above my left eye. At that time, my brother Luv Kumar, who was standing near me, tried to rescue me. Then all these persons left me and caught my brother Luv Kumar and threw him on the ground and beaten him. Punches were hit on the face of my brother. The specs of my brother were also broken. Then we raised hue and cry. Then many persons gathered there and upon seeing the gathering of the people, all these persons gave us more beating. After getting rescued from them, we went to our house. Then Jagdish Kumar alias Kala and the wife of Jagdish Kumar namely Veena Rani and Nikhil Kumar and Lavisha again



encircled us in front of our house and beaten us. We again raised hue and cry, then all of them fled from there. While leaving, they gave us threat that today, you have escaped, if again would raise an issue, then would not leave, will kill you and also have the possession. In the crowd, some person told everything to my brother Ruldu Ram on phone. He came to the site and after arranging a vehicle, got us admitted in Civil Hospital, Samana for treatment, where we are under treatment. Legal action be taken against the above persons. I have got my statement recorded to you, read it, heard it and is correct. Sd/ Sansari Ram, statement corroborated, Sd/- Luv Kumar son of Rameshwar Dass, resident of Anand Colony, Samana, Attested.

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioners contends that in fact no overt act has been attributed to the petitioners and have no role to play in the alleged offence including giving blows and punches and clicks and the same are also not corroborated by the Medico Legal Report. He further contends that according to the CCTV footage, the son of petitioner No.1 namely Nikhil Babbar i.e. petitioner No.3 was not even present and rather they have played the role in good faith of separating the two who were entangled in the scuffle and merely on account of their presence at the spot, the petitioners have been nominated in the instant FIR.

It is also the case of the counsel for the petitioners that neither the petitioners were armed with any weapon whatsoever which can be very well seen in the CCTV footage as well still photographs which have also been placed on record as Annexure-P 3.

**On behalf of the State and complainant**

Learned State Counsel appearing on advance notice on instructions from ASI Rajbir Singh and Mr. Luvinder Sofat, Advocate counsel for the complainant appears and vehemently oppose the prayer for grant of concession of anticipatory bail but are not in a position to controvert the submission made by counsel for the petitioners, however, one fact that is the declaration on behalf of the counsel for the petitioners that he is not involved in any other FIR is incorrect and false as petitioners No. 1 and 3 are involved in one more FIR i.e. FIR No. 84/2021 under Sections 323, 451, 34 IPC registered at P.S. City Samana.

At this stage, counsel for the petitioners submits that as far as the averment of the State Counsel is concerned for involvement of the petitioners No.1 and 3 in another FIR, the same has happened inadvertently due to oversight but the petitioners have no intention to conceal the said fact as the same is a matter of record and otherwise also petitioners could not have escaped from this very fact.

4. Analysis

Be that as it may, considering the admitted facts on the part of the prosecution that no active role has been assigned to the present petitioners and the injury which is on the forehead is attributed to co-accused Jagdish Kumar alias Kala who is not a petitioner before this Court.

The explanation given by the counsel for the petitioners regarding concealing of the fact of involvement of the petitioners in another FIR seems to be justified and reasonable and otherwise the



involvement of the petitioners in any other case would not be predicament for this Court to consider the case of the grant of bail in view of the judgment passed by this Court in CRM-M-25914-2022 titled as “*Baljinder Singh alias Rock vs. State of Punjab*” decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would land the petitioner in a situation of denial of the concession of bail.

Hence, this Court finds no reason to deny the petitioners the concession of anticipatory bail, wherein the petitioners have bona fide intentions and are 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

Hence, in view of the admitted set of circumstances before this Court, the petitioners are hereby directed to be released on anticipatory bail subject to their joining investigation and reporting to the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioners shall also abide by the

terms and conditions as envisaged under Section 482(2) of BNSS of 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 petitioners does not comply with the aforesaid direction of joining the investigation within one week, 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
anuradha

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