



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

104

CRM-M-62039-2024
DATE OF DECISION: 11.12.2024

DEVENDER SINGH ALIAS DEBU

..PETITIONER

Versus

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Niharika, Advocate for the petitioner(s).
Mr. B.S.Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)1. Relief Sought

This petition has been filed 482 of Bhartiya Nagrik Suraksha Sanhita (BNSS), 2023 (earlier Section 438 of Cr.P.C.) for grant of concession of Anticipatory Bail in FIR No. 93 dated 23.03.2022 under Section 148, 149, 302, 307, 427, 452, 506, 120-B of IPC & Section 25 of Arms Act and (Section 212 & 201 of IPC and Section 27 of Arms Act added later on) Police Station Sadar Palwal District Palwal (Annexure P-1).

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

‘To, Incharge Police Post Dighaut, District Palwal. Sir, it is requested that I am Akash son of Rajesh, resident of Dighaut, District Palwal, we are two brothers, Yashbir is my elder brother, of our family members Surender son of Rajender, Govind son of Gangacharan, Yogesh alias Tinku son of Gugal, resident of Dighot and Anand, resident of Dakora, who seems to be Surender's brother- in-law and has been fighting with him for



many years. Those who Surrender etc. were holding a grudge against us regarding this matter, who had threatened us many times that if we got chance, we would destroy your family, keeping the grudge on this matter. Surrender, Govind, Anand, Tinku conspired to destroy our family, Tekchand resident of Khedi. Neeraj Pandit, resident of Faridpur, District Faridabad, Jagga resident of Chandhat, he is a villain type of man and is responsible for many murders and criminals of robbery and dacoity and they have made a name for themselves by committing crimes and together they gave money to destroy our family and Tekchand etc. took money from Surendra etc. to kill us. Kailash's brothers Pratap and Mahesh, resident Alawalpur dealer, resident Balai and along with him four unknown persons, yesterday on 22.03.2022 at around 12:00 noon, when I was standing at the wall of my uncle Dinesh's Nohra, that Kailash, Pratap, Mahesh, resident of Alawalpur, dealer resident of Balei and the names of four others. I don't know came to our house in Nohra, my brother Yashbir and Sonu son of Satbir, resident of Dighot, Sarfaraz son of Farooq resident of Dhirnki, Hathin Engineer, Jaiveer son of Karan Singh R/o Korali who was the contractor because were constructing a new house at Nohra had come to see him were Kailash, Pratap, Mahesh, the dealer and along with him four unknown names, all of whom had pistols in their hands and started firing from outside also. I immediately moved from the wall to the roof and everyone came, from front to back firing bullets and hearing the sound of the bullet, Yashbir closed the door from the other side, they all broke the door and started firing indiscriminately at my brothers Yashbic, Sonu, Sarfaraz and Jaiveer sitting inside. After firing for a long time, they started saying that if any one of you survives today, they will kill you, when Kailash etc. started firing indiscriminately again, my brother Yashbir got hit by several bullets and Sarfaraz and Tasveer were also shot, my mother Gayatri Devi alao came to the spot after hearing the sound of



bullets, Kailash and others also fired bullets at my mother, she also narrowly escaped, after their departure Vikas son Taggar, Kishan's son Dayaram also came at the right time and with their help. I put Yashbir, Sarfaraz, Jaiveer in my car and first referred Yashbir to Apex Hospital. Palwal, Doctor Saheb referred Yashbir to Sarvodaya Hospital, Faridabad. Leaving Sarfaraz and Jaiveer for treatment, brought Yashbir to the hospital from Sarvodaya Hospital. My brother Yashbir died during treatment, he died after being shot by Kailash, Pratap, Mahesh etc. who has killed my brother Yashbir by paying money to Tekchand. Neeraj, Jagga and hatching conspiracy by Surender, Gobind, Anand, Tinku, Kailash, Pratap, Mahesh, dealer and 4 unknown persons. Legal action be taken against them, this entire incident is recorded in our CCTV camera installed in Nohra.'

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner has submitted that the petitioner was initially not named in the instant FIR and no role has been attributed to him. He further submits that the allegation qua him is that the accused persons had stayed in the a hotel and the ID Card/Aadhar Card of the petitioner was used to secure the booking of the hotel room and except that no other corroborative evidence is produced by the prosecution. It is the assertion of the petitioner that there is no occasion or any prudent reason for the petitioner to handover his ID Card to the accused persons which was misused by them. It is further argued by counsel for the petitioner that the nomination of the petitioner is a mere after thought as the petitioner has been nominated after more than two and a half years. He further



asserts that the signatures in the record of the hotel are not that of the petitioner, therefore, the counsel prays for grant of anticipatory bail.

On behalf of the State

Learned State Counsel appearing on advance notice on instructions from Investigating Officer vehemently opposes the prayer for grant of concession of anticipatory bail stating that there is disclosure statements made by co-accused Harvinder Singh and Anil on the basis of which the petitioner was nominated as an accused, however could not controvert the submissions made by counsel for the petitioner.

4. **Analysis**

Be that as it may, after given a thoughtful consideration to the submissions as made, by the counsel for both the parties and keeping in view the facts that except for the disclosure statements made by co-accused persons namely Harvinder Singh and Anil, no other incriminating material has been produced by State Counsel against the petitioner to prove that the petitioner either stayed in the hotel or was seen in the CCTV footage at the time of booking at reception of the hotel, hence, this Court is of the considered opinion that no offence under Sections mentioned above is made out except, the use of ID card of the petitioner for booking hotel room and that needs to be interrogated by the prosecution as to under what circumstances his identity card was in the possession of the co-accused persons and for this purpose only, the custodial interrogation of the petitioner is not required. Hence, this Court finds no reason to deny the petitioner the concession of anticipatory bail, wherein the petitioner has bona fide intentions and is



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 petitioner is hereby directed to be released on anticipatory bail subject to him 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 petitioner 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 petitioner 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

11.12.2024
anuradha

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