

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

102

CRM-M-62399-2024
DECIDED ON: 12.12.2024

SONU KUMAR

.... PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sandeep Kumar, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab

SANDEEP MOUDGIL, J

1. RELIEF SOUGHT

The jurisdiction of this Court under Section 482 B.N.S.S. has been invoked seeking grant of anticipatory bail to the petitioner in case FIR no.145, dated 04.11.2024, under Sections 115(2), 126(2), 351(2), 190 of BNS,2023(SECTION 109 and 11 of BNS,2023 added later on) registered at Police Station Division no.8, District Ludhiana.

2. The contents of the FIR read as under:-

'Statement of Ajay Kumar son of Late Sh. Chaman Lal resident of H.No.53, Near Kala Singha, Haibowal Kalan, Ludhiana, aged about 47 years, M.No.78378-098980. Stated that I am resident of above mentioned address. On 02.10.2024 at about 12.30 AM, I along with my friends Harsh, Shiv Kumar, Sandeep Kumar had gathered near Rose Garden to celebrate the birthday of my friend Chetan Malhotra, then Vijay alias Monu resident of Haibowal, Sonu resident of Haibowal, Ludhiana, Ashok Kumar alias Shaunki resident of Sangam Chowk, Tarun resident of



Jalandhar, Rohit Bains alias Jaggi resident of Dhobi Ghat, Near K.V.M. School, Ludhiana, Suraj Chauhan, Ravi Sahota resident of Chander Nagar, Ludhiana, Neeraj Chauhan resident of Haibowal, Ludhiana along with 08-10 unidentified boys, who came on their respective vehicles, which also included Sonu brother of aforesaid Vijay, who were armed with sharp edged weapons like Dattar, swords, baseball, Khandas and started attacking my aforesaid friends Harsh, Shiv Kumar and Sandeep Kumar. Sandeep was given Dat blow into his head, my friends Harsh and Shiv Kumar were attacked on their heads with swords. When I came forward to rescue them, then they gave a Dat blow into my head. The gold chain weighing 02 Tollas in my neck and 02 phone belonging to me and my friend Chetan Malhotra, first one is make Samsung, color grey and second one is make Oppo, color black have been snatched. The first phone contained 02 SIMs bearing No.78888-49349, 78378- 98980 and second phone also contained 02 SIMs bearing No. 9888896889, 9877495593 are operating. After beating us, the opposite party fled away from the spot after giving life threats to us. Due to suffering of multiple injuries by us, I along with friends reached Civil Hospital, Ludhiana, where we got treatment and got issued MLR's No.1411 MN/24, MLR 1414 MN/24, MLR 1413 MN/24, MLR 1412 MN/24. Now I along with my friends Harsh, Shiv Kumar, Sandeep Kumar were coming to you to give information. You met, take action. Statement got recorded to you, heard, which is correct. Sd/- Ajay Kumar.'

3. ***SUBMISSIONS***

ON BEHALF OF THE PETITIONER:

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present FIR wherein no role and injury has been categorically attributed to the petitioner. Further, he was not present at the place of occurrence as alleged in the FIR therefore nothing is to be recovered from him as such. Rather, the petitioner is ready and willing to join the investigation as and when required by the investigating officer and undertakes that he will fully cooperate with the investigating agency.



Notice of Motion.

ON BEHALF OF RESPONDENT-STATE:

Learned State counsel who is present in the court accepts notice on behalf of the state and contends that the petitioner is alleged to be present at the place of occurrence with other co-accused wherein he and his other friends were duly armed with sharp edged weapons like Dattar, Swords, Baseball, Khandas wherein the injured had received injuries on the vital part of the head and other parts. He further contends that interrogation of the petitioner is required for the recovery of weapon of offence and for further investigation in the instant FIR.

4. Heard learned counsel for the parties at length.

5. **ANALYSIS AND CONCLUSION**

Be that as it may, after considering the submissions made herein above and on perusal of the assertions made in the petition as well, this court is of the firm view that custodial interrogation of the petitioner is required particularly in view of the fact that serious overt act has been attributed to the petitioner.

Moreover, it is settled proposition of law that power exercisable under Section 482 BNSS, 2023., is somewhat extraordinary in character and it is to be exercised in exceptional cases. In State of **Andhra Pradesh vs. Vimal Krishna Kundu, AIR 1997 SC 3589**, Apex Court has held that in case of well orchestrated conspiracy, if the accused is equipped with anticipatory bail order before interrogated by police, would greatly harm the investigation and would impede the prospects of unearthing all the ramifications involved in the conspiracy. Similarly, in **Ram Govind Upadhyay versus Sudarshan Singh, (2002) 3 SCC 598**, it has been observed as under:

“3. Grant of bail though being a discretionary order — but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts, however, do always vary from case to case. While placement of the accused in the society, though may be considered but that by itself cannot be a guiding factor in the matter of grant of bail and the same should and ought always to be coupled with other circumstances warranting the grant of bail. The nature of the offence is one of the basic considerations for the grant of bail — more heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter.”

6. In view of the seriousness of the allegations, the custodial interrogation of the petitioner is certainly required. Therefore, I find no merit in the petition and the same is hereby dismissed.

7. However, it is made clear that the observations made hereinabove shall have no bearing in the mind of the trial Court while conducting the trial and adjudicating the same.

(SANDEEP MOUDGIL)
JUDGE

12.12.2024
anuradha

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