
(2014) 07 P&H CK 0048

High Court Of Punjab And Haryana At Chandigarh

Case No: CRM No. M-11820 of 2013

Deepak Yadav

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision: July 24, 2014

Acts Referred:

- Penal Code, 1860 (IPC) - Section 323, 34, 452, 506

Hon'ble Judges: Mehinder Singh Sullar, J

Bench: Single Bench

Advocate: K.D.S. Hooda, Advocate, Bipan Ghai, Senior Advocate and Paras Talwar, Advocate for the Appellant; Satyawar Rathee, DAG, Advocate for the Respondent

Final Decision: Dismissed

Judgement

Mehinder Singh Sullar, J.

Petitioners Deepak Yadav and Sunil Kumar (main accused) sons of Kanwar Singh, have preferred the instant petition, for the grant of concession of pre-arrest bail, in a case registered against them along with their brothers and father, other co-accused, namely, Ravinder Singh, Raj Kumar and Kanwar Singh etc., vide FIR No. 69 dated 6.3.2013 (Annexure P1), on accusation of having committed the offences punishable under Sections 323, 452 and 506 read with Section 34 IPC by the police of Police Station Model Town, Rewari.

2. Notice of the petition was issued to the State.

3. After hearing the learned counsel for the parties, going through the record with their valuable help and after deep consideration over the entire matter, to my mind, there is no merit in the present petition for anticipatory bail in this context.

4. Ex facie, the argument of learned counsel that since the petitioners have been falsely implicated in this case by the complainant on account of previous enmity, so they are entitled to the concession of pre-arrest bail, lacks merit.

5. Tersely, the prosecution, inter-alia, claimed that the marriage of Kalawati (since deceased), sister of complainant Amar Singh S/o. Sanwal Singh (for brevity "the complainant"), was solemnized with Kanwar Singh, father of the petitioners. They used to frequently visit his (complainant's) house. On 29.11.2012, petitioner Deepak Kumar along with his other co-accused, visited and stayed in the house of Surender Singh, brother of the complainant. They left the house in the absence of family members after committing theft of Rs. 80,000/- in cash, one gold necklace and four gold bangles. When the complainant confronted the petitioners, they confessed their guilt in this regard. Although, initially, father of petitioners promised, but subsequently, he refused to return the indicated cash and gold ornaments and even he threatened the complainant with dire consequences of elimination in case he would demand the gold ornaments from them in future.

6. The case of prosecution further proceeds that on 3.3.2013, petitioner Sunil Kumar and his other co-accused came to the house of Surender Singh, brother of the complainant, armed with sharp edged weapon and pistol in a Vegon-R car, bearing registration No. HR-26AA-0126. They started abusing and Surender Singh closed the door of his house. Then, the accused had gone and entered in the ancestral house of Virender Singh, brother of the complainant, situated in village Pewara Ki Dhani, Sector 19, Rewari and gave beatings to him. Meanwhile, the complainant along with his brothers Narender, Jaswant and Surender also reached there. The complainant claimed that thereafter the accused raised a lalkara that all the brothers be finished. Subsequently, petitioner Sunil Kumar took out his pistol and tried to kill the complainant, but he was saved by Ashok Yadav S/o. Deen Dayal and Ashok Kumar S/o. Khem Chand.

7. Meaning thereby, very serious and direct allegations of committing theft of Rs. 80,000/- in cash, one gold necklace and four gold bangles are assigned to Deepak Kumar (petitioner No. 1) and petitioner No. 2 Sunil Kumar took out his pistol in order to kill the complainant and his brothers, are assigned to them.

8. Therefore, considering the seriousness of pointed allegations of the offences in question, to me, custodial interrogation of petitioners is necessary. In case, they are allowed the concession of pre-arrest bail, then, the police would be deprived to recover the indicated cash, gold ornaments from petitioner No. 1 and pistol from petitioner No. 2, other case property and effective investigation. It would naturally adversely affect & weaken the case of the prosecution, which, to my mind, is not legally permissible.

9. There is yet another aspect of the matter, which can be viewed entirely from a different angle. During the course of preliminary hearing, the matter was referred to Mediation and Conciliation Centre of this Court for amicable settlement between the parties, as prayed for, by a Coordinate Bench of this Court (Mahesh Grover, J.) on 28.5.2013. Again, they sought time to settle the matter, but the petitioners have neither amicably settled the dispute nor returned the articles to the complainant

despite adequate opportunities. Ultimately, they have flatly refused to return the pointed cash and gold ornaments to the complainant. Therefore, they are not entitled to the concession of pre-arrest bail in the obtaining circumstances of the case.

10. Moreover, it is now well settled principle of law that the order of anticipatory bail cannot be allowed to circumvent normal procedure of arrest, recovery of case property from the main accused and investigation by the police. The Court has also to see that the investigation is in the province of the police and an order of anticipatory bail should not operate as an inroad into the statutory investigational powers of the police, in exercising the judicial discretion in granting the anticipatory bail. Sequently, the Court should not be unmindful of the difficulties likely to be faced by the investigating agency and the public interest likely to be affected thereby.

11. In the light of aforesaid reasons and without commenting further anything on merits, lest it may prejudice the case of either side during the course of trial of main case, as there is no merit, therefore, the instant petition for anticipatory bail filed by petitioners are hereby dismissed as such.

12. Needless to mention that nothing observed, here-in-above, would reflect, on the merits of the main case, in any manner, during the trial, as the same has been so recorded for a limited purpose of deciding the present petition for anticipatory bail only.