

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr.MP(M) No.405 of 2021****Decided on :09.03.2021****Akhil Katoch****....Petitioner****Versus****State of Himachal Pradesh****.....Respondent**

Coram:

The Hon'ble Mr. Justice Vivek Singh Thakur, Judge.*Whether approved for reporting? Yes.*

For the petitioner : Mr. Suneel Awasthi, Advocate.

For the respondent : Mr. Desh Raj Thakur, Additional Advocate General.

Vivek Singh Thakur, Judge (Oral)

Present petition has been filed seeking anticipatory bail under Section 438 Cr.P.C., in case FIR No. 0042, dated 27.02.2021, under Sections 452, 323, 504, 364, 382, 325 read with Section 34 of IPC, registered at Police Station Palampur.

2. Status report stands filed, wherein it is stated that on 27.02.2021, at about 12.30 A.M., accused along with three co-accused persons, after consuming liquor, approached reception of Hotel Moon Light for staying but when manager of the hotel-complainant told them the room rent of the hotel would be Rs.1500/- per day, the accused persons started abusing him by saying that they would pay Rs.200/- only, whereupon complainant refused to allow them to stay in the hotel whereupon accused persons insisted to talk with owner of the hotel but the said request

was refuted by the complainant stating that in the mid-night, he would not be able to do so, whereupon accused persons had caught him from neck and started beating him and dragged him outside the hotel and continued to beat him. Thereafter, two of accused had caught hold of his legs and had dragged him from the market of Palampur to a forest and on the way to forest, his jacket was removed by them and thrown in the forest and thereafter they beat him with kicks, fist blows and with wooden planks for about four hours and at about 4 A.M. somehow complainant managed to flee from the clutches of the accused persons and rushed to the hotel whereupon owner of the hotel Vishard Sood, informed the police and thereafter on the basis of the statement made by the complainant, case was registered. Photographs of the injured indicating the severity of injuries and substantiating the plea of the complainant have also been produced.

3. It is also stated in status report that on 27.02.2021, at about, 1.20 A.M., one Sat Pal alias Vicky s/o Man Singh had also lodged a report in the police station that some drunken boys are abusing his Hotel Manager whereupon police officials, in Govt. vehicle, had rushed to Moon Light Hotel, but Hotel Manager was not found in Hotel and was not traceable in streets, roads, new bus terminal etc. around the hotel.

4. Learned counsel for the petitioner has referred pronouncements of Apex Court reported in (2017) 5 SCC 2018, titled as Manoranjana Singh alias Gupta vs. Central Bureau of Investigation and judgment of a Coordinate Bench dated 27th November, 2020 passed in Cr.MPM No. 2086/2020, titled as Krishan Dev. Vs .State for substantiating his prayer for granting anticipatory bail to the petitioner.

5. So far as ratio of law laid as well as principles referred in the aforesaid judgments are concerned, there is no dispute qua that, but each and every case has to be considered on the basis of its own facts and circumstances after considering the material placed before the Court.

6. For material placed before me, the manner in which the offence is alleged to have been committed and keeping in view the fact that the investigation is at initial stage, I do not find it to be a fit case for exercising the extraordinary jurisdiction under Section 438 Cr.P.C in favour of the petitioner, at this stage. Though, petitioner may be entitled for regular bail under Section 439 Cr.P.C. but not atleast under Section 438 Cr.P.C. Petition stands dismissed.

(Vivek Singh Thakur)
Judge

March, 09 2021
(reena)