

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

**Crl. Misc. No.M-35765 of 2017 (O&M)
Date of Decision: November 27, 2017**

Harbans Singh

.....PETITIONER(s).

VERSUS

State of Punjab

...RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Gagandeep Singh Sirphikhi, Advocate
for the petitioner (s).

Mr. Sandeep Kumar, D.A.G. Punjab.

Ms. G.K. Mann, Advocate
for the complainant.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 438 Code of Criminal Procedure for grant of anticipatory bail to the petitioner in the cross-case in FIR No.0408 dated 10.10.2016 registered for the offences punishable under Sections 326, 323, 148 read with Section 149 of Indian Penal Code, at Police Station A-Division, Amritsar City.

Heard.

FIR pertaining to the occurrence dated 05.10.2016 was registered on the complaint of Kanwaljit Kaur wife of Jaspal Singh @ Sonu. As per allegations in FIR, there was dispute between complainant's mother-in-law Surjit Kaur and her brother Jaspal Singh about a plot. The

complainant party wanted to demolish the construction on the plot in dispute to raise new construction, which Jaspal Singh was not allowing. In the morning at about 5.30/6.00 a.m. on 05.10.2016, Jaspal Singh, his sons Karan and Saurav and wife Kuldip Kaur entered their plot and started beating them. Jaspal Singh gave a brick plot on the head of complainant and when Mukhtiar Singh intervened, he was also given various injuries.

In the cross-version recorded on the statement of Rashpal Singh son of Dharam Singh, he has alleged that in the morning on 05.10.2016, he along with his brother-in-law Jaspal Singh was going for a morning walk, when they heard a noise and came out with his brother Harcharan and nephew (sister's son) Saurav and sister Kuldip Kaur in the street. They found that Jaspal Singh @ Sonu, Harpal Singh @ Monu sons of Surjit Kaur, their brother-in-laws Bau, Mukhtiar Singh, Rashpal Singh, Harjit Kaur, Jasbir Kaur, Kanwalpreet Kaur, Surjit Kaur and petitioner Harbans Singh have engaged mason and were raising construction in the plot in dispute. Jaspal Singh was stopping them from raising construction at which aforesaid persons hurled abuses and attacked him. On *Lalkara* raised by petitioner, they gave beatings to Jaspal Singh. Petitioner was having a *datar* in his hand and gave a blow on the head of Jaspal Singh, who fell on the ground.

Learned counsel for the petitioner submits that though injury No.1, which is on the head of Jaspal Singh, was having fracture but the margins of the injury were not regular and its depth was also not probed. This make out a case for offence punishable under Section 325 IPC, which isailable.

Learned State counsel has argued that injury No.1 on the head of Jaspal Singh was an incised wound of the size of 6.8 X .4 cm. The doctor had not probed depth of injury as the fresh bleeding was present and the margins of the injury were regular. This injury was caused by *datar*, which is yet to be recovered from the petitioner. Keeping in view the nature of injury caused by the petitioner, he is not entitled to anticipatory bail in this case.

On perusal of the paper-book, medical record of injured and taking note of the submissions by learned counsel for the petitioner, complainant and learned State counsel, I find that *prima facie*, it is a case where the grievous injury with sharp edged weapon has been caused by the petitioner. Weapon of offence is yet to be recovered.

Keeping in view the above facts and gravity of offence, I do not find any reason to exercise the discretionary power of this Court to extend the benefit of anticipatory bail to the petitioner.

This petition has no merits. Dismissed.

November 27, 2017

Sachin M.

**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No