

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

**Crl. Misc. No.M-37027 of 2017 (O&M)
Date of Decision: December 14, 2017**

Raj Kumar and another

.....PETITIONER(s).

VERSUS

State of Punjab

...RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Deepak Aggarwal, Advocate
for the petitioner (s).

Ms. Seena Mand, D.A.G. Punjab.

Mr. B.D.Sharma, 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 petitioners in case FIR No. 425 dated 26.08.2017 registered for the offences punishable under Sections 341, 325, 323, 379, 506, 148 read with Section 149 of Indian Penal Code at Police Station Civil Lines, Amritsar, District Amritsar.

Heard.

As per the complainant, who is an Advocate by profession, he along with his father was going to house of petitioner in connection with payment of loan of ₹9 lac taken by him from father of complainant. On the way to the house of petitioner-Raj Kumar, who is living at Gopal Nagar, Amritsar, he and his sons accompanied by 5-6 unidentified persons met

them and on the *lalkara* raised by petitioner-Raj Kumar, his son Akshay Kumar gave a *Dattar* blow from the blunt side on the head of the complainant and Sagar (petitioner No. 2) hit on the nose of the complainant with base ball bat, as a result of which, he fell on the ground. The petitioners and other persons accompanying them caused injuries while he was lying on the ground. Father of the complainant raised *Roula* at which all the accused ran away from the spot and while leaving the spot, petitioner Raju snatched gold chain of the complainant.

Learned State counsel submits that the complainant had suffered 8 injuries and on C.T. Scan of nasal injury, fractured nasal bone was detected. This injury has been attributed to Sagar. The other son of petitioner No. 1 namely Akshay is absconding and has not been arrested so far.

Learned counsel for the petitioners submits that in fact it was a dispute pertaining amount to loan which father of the complainant alleged to have advanced to petitioner No. 1. This dispute has been given color of this occurrence, in order to falsely implicate the petitioners in this case. Petitioner Raj Kumar has not been attributed any injury. He has been attributed *Lalkara* only. Allegation of snatching of gold chain of complainant by Raj Kumar is only to enhance the gravity of offence, as earlier the police has not added offence punishable under Section 379-B IPC in the FIR.

On going through the police file and paper book, I find that there are 8 injuries on the person of complainant out of which some are on vital parts of the body and could not be fabricated. In view of this,

submission of counsel for the petitioner that it is a fabricate case, cannot be believed. Petitioner No. 1 Raj Kumar has been attributed *Lalkara* only and he was not armed with any weapon.

Keeping in view the above fact, this petition is allowed qua petitioner No. 1-Raj Kumar, who has already joined the investigation and the order dated 10.10.2017 allowing him interim anticipatory bail is made absolute, till the presentation of challan, subject to the following terms:-

- (i) that petitioner Raj Kumar shall make himself available for interrogation by the police as and when required;
- (ii) that petitioner Raj Kumar shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer;
- (iii) that petitioner Raj Kumar shall not leave India without the prior permission of the Court.
- (iv) that petitioner Raj Kumar will seek regular bail on the presentation of challan in Court, which the trial Court will decide on the basis of evidence collected during investigation.

Petitioner No. 2-Sagar has been attributed specific injury on the person of complainant. Keeping in view his role in the occurrence, I find no reason to exercise discretionary power of this Court to grant him the benefit of anticipatory bail.

This petition qua petitioner No. 2 is dismissed.

(SURINDER GUPTA)
JUDGE

December 14, 2017
Jyoti-II

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***