

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

CRM-M-6600-2020 (O&M)
Date of decision : 05.08.2020

Rajinder Singh @ Raja Walia

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Suvir Sidhu, Advocate for
Mr. Pratham Sethi, Advocate
for the petitioner.

Mr. Mehardeep Singh, Addl. A.G., Punjab.

Mr. Vipin Mahajan, Advocate
for the complainant.

JITENDRA CHAUHAN, J. (Oral)

The petitioner seeks pre-arrest bail in case FIR No. 10 dated 12.01.2020, registered under Sections 307, 341, 323, 365, 506, 447, 148 read with Section 149 of Indian Penal Code; Sections 25 & 27 of Arms Act and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station City Batala, Police District Batala, District Gurdaspur.

Heard.

On 29.06.2020, the following order was passed:-

“The case has been taken up by way of Video Conference as per instructions in view of COVID-19 pandemic.

This is a petition filed under Section 482 read with Section 438 Cr.P.C. for grant of anticipatory bail in case FIR

No. 10, dated 12.1.2020, registered under Sections 307, 341, 323, 365, 506, 427, 148, 149 IPC and Sections 25, 27 of Arms Act, 1959 and under Section 3 of Scheduled Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989 at Police Station City Batala, Police District Batala, District Gurdaspur.

The case was registered on the statement of one Ashwani Kumar alias Badal wherein he has stated that he is doing the work of vegetables. On 12.1.2020 at about 2.30 pm when he was going from Jalandhar to his house on his Swift car bearing No. PB08 CG 5118 and reached at Hathi Gate, then at the chowk, Raja Walia (petitioner) of Achali Gate Batala on his Aactiva scootri was standing alongwith Baggi alias Kamla Bhatti, Sikandar and Lucky (brother of Raja Walia) was standing at Achali Gate Batala. He blew the horn and asked them to leave the way. But they did not do so. Raja Walia forced him (complainant) out from the car after taking the pistol from his dub. He gave a blow with the butt of pistol which hit at upper portion of his right eye brow. Then, Baggi alias Kamla Bhatti gave him fist blow which hit his lip. Sikandar gave him two danda blows which hit him at his right hand and knee cap. In the meantime, Lucky (brother of petitioner) caught hold of the complainant from his hair and threw him on ground and gave him kick blows at his back. Raja Walia then called 8-10 unidentified persons who gave him dangs and leg blows while he was lying on the ground. Thereafter, petitioner asked his companions to eliminate him after taking him to his house. They took him to the house of the petitioner in injured condition where they again beat him up. The petitioner also abused him by uttering derogatory remarks against his caste. They also broke the mirror of his car. Police reached at the spot and rescued him.

Learned Senior counsel for petitioner has argued that a totally false case has being foisted on the petitioner. In fact it is a case of version and cross version. Petitioner suffered grievous injuries at the hands of complainant party. Copy of MLR and X Ray report of petitioner have been annexed as Annexure P-2 and Annexure P-2A. As per Annexure P-2A petitioner has suffered fracture of base of Vth metacarpal bone of right hand. This injury has been opined to be grievous in

nature. The complainant party has not explained this injury to the petitioner. Learned senior counsel has further argued that in fact the complainant party was aggressor. One Jatinder Kalyan MC alongwith 5-6 persons attacked the petitioner while he was standing outside his house and inflicted injuries on him. Petitioner informed the police about the incident and requested the police to protect him from the complainant party. He has annexed the CD and the transcription of the calls made by him to the local SHO and higher officials. He further argued that complainant Ashwani Kumar alias Badal is a notorious person and is involved in number of cases. The list of cases registered against him have also been annexed.

Learned Senior counsel argued that no offence under Section 307 IPC is made out. The injuries suffered by the complainant are only simple injuries. He further argued that no offence under Section 3 of SC and ST Act is made out as the alleged derogatory words were used in the house of petitioner and not in the public view. Moreover the coaccused of petitioner namely, Baggi alias Kamla Bhati and Sikander belong to Valmiki community and it would be unimaginable that the petitioner would dare utter caste based abuses against the complainant in their presence.

List on 4.8.2020.

In the meanwhile, petitioner is directed to join investigation. In the event of arrest of petitioner, he be released on interim bail to the satisfaction of Arresting Officer/Investigating Officer. He will abide by conditions of Section 438 (2) Cr.P.C.

Learned State counsel, on instructions from ASI Sukhdev Singh, submits that in pursuance of the order dated 29.06.2020 passed by this Court, the petitioner has joined the investigation and he is not required for custodial interrogation.

In view of the above, without expressing any opinion on the merits of the case, the interim bail granted by this Court vide order dated 29.06.2020, is made absolute, subject to furnishing bail

bonds/surety bonds to the satisfaction of the Chief Judicial
Magistrate/Duty Magistrate concerned.

The petition stands allowed.

05.08.2020
 jyoti-II

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No