

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

CRM-M-17853-2020
Date of decision: 07.10.2020

Kanwarjeet Singh

.....Petitioner.

vs.

State of Punjab and another

.....Respondents.

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: - Mr. Tarunveer Vashist, Advocate, for the petitioner.

Mr. Gaurav Garg Dhuriwala, Senior Deputy Advocate
General, Punjab.

Mr. C.L. Premy, Advocate,
for complainant/respondent No.2.

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Sanjay Kumar, J. (ORAL)

The petitioner is one of the accused in FIR No. 93 dated 17.06.2020 on the file of Police Station Bassi Pathana, District Fatehgarh Sahib, registered under Sections 452, 324, 323 and 34 IPC (Section 326 IPC added later on). By way of this petition filed under Section 438 Cr. P.C., he seeks grant of anticipatory bail.

Notice of motion was ordered by this Court on 08.07.2020 and the petitioner was asked to join investigation. He was also granted interim bail in the event of his arrest, subject to conditions. This Court specifically directed that he should join investigation as and when called upon to do so and abide by the conditions provided in Section 438 (2) Cr. P.C.

The second respondent-complainant entered appearance through Mr. Chaman Lal Premy, learned counsel, and filed his reply opposing this bail petition.

As this Court was informed on 04.08.2020 that the petitioner did not cooperate with the investigation despite the interim protection given to him, *vide* the order dated 08.07.2020 passed in this case, a reply was directed to be filed giving full details.

Thereupon, the Deputy Superintendent of Police, Circle Bassi Pathana, District Fatehgarh Sahib, filed his reply dated 05.10.2020. He set out the facts of the case therein and went on to state that the attack upon the complainant, the father-in-law of the petitioner, was not only witnessed by the petitioner's wife but also the neighbour, Gurmanpreet Singh, an independent witness. He further stated that the attack by the petitioner was with an iron knife (*kirch*) while his accomplice hit the complainant with a wooden handle. The medico-legal report indicated that six injuries were sustained by the complainant, out of which injuries No.01 to 03 were caused by a sharp-edged weapon while injuries No.04 to 06 were caused by a blunt weapon. Injury No.01 was declared to be a grievous injury, leading to incorporation of an offence under Section 326 IPC, *vide* DDR No. 16 dated 29.09.2020. The Deputy Superintendent referred to the statement made by Gurmanpreet Singh, the independent witness, under Section 161 Cr. P.C. to the effect that he saw the petitioner and his accomplice running away from the spot with their respective weapons. According to the Deputy Superintendent, it was Gurmanpreet Singh who took the complainant to the

The Deputy Superintendent further stated that though the petitioner joined the investigation on 13.07.2020, he baldly denied involvement by claiming that he was not even present at the spot at that time. Except for this bare denial, *per* the Deputy Superintendent, the petitioner did not choose to cooperate with the investigative process.

Mr. Tarunveer Vashist, learned counsel for the petitioner, would argue that the complainant had issues with his neighbour and in all probability, the said neighbour may have caused an attack upon him but the complainant chose to make use thereof to foist this false case upon the petitioner, his son-in-law. Learned counsel would state that some complaints were lodged earlier by the complainant against the petitioner but the petitioner was given a clean chit by the police authorities.

The learned counsel for the petitioner would further contend that the petitioner was not even at the spot and that he already asked the police authorities to obtain the records pertaining to his cell phone to pinpoint his exact location at the relevant time. However, the location of the cell phone at any particular time may not be indicative, in itself, of the actual location of the person who owns it. A premeditated attack may entail prior planning in this regard to ensure that the cell phone records may indicate the whereabouts of a person erroneously though he is actually elsewhere. More significantly, the learned counsel has no answer as to the statement made by the independent witness, Gurmanpreet Singh. His feeble explanation on this aspect is that being a neighbour, Gurmanpreet Singh chose to support the complainant.

Given the totality of the aforesaid facts and circumstances, it is clear that there is sufficient material against the petitioner to warrant a full-fledged investigation. His custodial interrogation would perhaps be necessary to elicit the truth from him. Having secured interim protection in the present case, the bald denials of the petitioner after joining investigation would not further the case. The failure on the part of the petitioner to cooperate with the police authorities despite the interim protection granted to him therefore leave this Court with no option but to recall the said order and deny relief to him.

This anticipatory bail petition is accordingly dismissed. Interim order dated 08.07.2020 shall stand vacated. Personal and surety bonds, if any, furnished to the Arresting/Investigating Officer shall stand discharged.

(SANJAY KUMAR)
JUDGE

07.10.2020

preeti

whether speaking/non speaking

yes/no

whether reportable/non reportable

yes/no