

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

103

CRM-M-21550-2020

Date of decision: 21.08.2020

Bishambar Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Munish Puri, Advocate
for the petitioner.

Mr. M.S. Nagra, Asstt. A.G. Punjab
for the respondent-State.

Mr. Anandeshwar Gautam, Advocate
for the complainant.

ARUN KUMAR TYAGI, J (ORAL)

The petitioner has filed present (second) petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.26 dated 30.03.2020 registered at Police Station Shahpurkandi, District Pathankot under Sections 307, 506, 148 and 149 of the Indian Penal Code, 1860 (for short 'the IPC') to which Sections 188, 324 and 325 of the IPC were added lateron.

The above-said FIR was registered on statement of Rameshwar Nath who alleged that on 30.03.2020 at about 8 a.m. on hearing the noise he went in the street outside his house and found that Bishambar Singh (petitioner) armed with iron rod and his co-accused Hans Raj, Sardari Lal and Joginder Singh armed with stick and Dinesh Kumar armed with datar were fighting with their nephews Akashdeep Singh and Shankardeep Singh while saying that they were being taught

a lesson for filing case against them. Bishambar Singh (petitioner) raised lalkara to catch and kill them. Co-accused Dinesh Kumar gave datar blow on the forehead of Shankardeep Singh while Bishambar Singh (petitioner) with an intention to kill gave iron rod blow to Akashdeep Singh. Due to injuries caused both Shankardeep Singh and Akashdeep Singh fell on the ground. Co-accused Hans Raj, Sardari Lal and Joginder Singh gave blows with sticks on different parts of their body. When he raised alarm and tried to rescue them he was also pushed. On hearing the noise his nephew Ishwar Singh came and on seeing him the assailants ran away from the spot along with their respective weapons.

The petitioner has filed the present (second) petition for grant of anticipatory bail. His first petition for grant of anticipatory bail was dismissed as withdrawn vide order dated 27.07.2020 passed by the Coordinate Bench of this Court.

The petition has been opposed by the learned Counsel for the State and learned Counsel for the complainant.

I have heard learned Counsel for the petitioner, learned State Counsel and learned Counsel for the complainant and gone through the record.

Learned Counsel for the petitioner has argued that the petitioner has been falsely implicated in the case. The complainant is having a grudge against the petitioner as the complainant's family members are claiming themselves to be the proprietor and mohtamim of famous Mukteshwar temple whereas the villagers formed a Trust/Society for managing the affairs of the said temple. The brothers

of the petitioner are members of the said Trust/Society. The petitioner is working in the PWD(B&R) in the office of Senior Architect, Patiala. Unfortunately the petitioner was on leave on 30.03.2020 but he was not present on the spot at the time of occurrence. The petitioner made efforts to obtain the call details and tower location of his mobile but the service provider declined his request. The injured were not taken to Civil Hospital and there is no MLR of Civil Hospital. Akashdeep Singh was got admitted in the private hospital which gave medical report as per the expectation of their patient and the same is not reliable. Offence under Section 307 of the IPC is not made out by the medical opinion given that the injury could be dangerous to life if the same was not treated. The petitioner is ready to join investigation and his custodial interrogation is not required in the case.

On the other hand, learned State Counsel assisted by learned Counsel for the complainant has argued that the injury on the person of Akashdeep Singh, which was declared to be dangerous to life, is attributed to the petitioner. Medical report given regarding the nature of the injuries cannot be doubted merely on the ground that the same was given by doctors of private hospital. Custodial interrogation of the petitioner is required for effecting recovery of the iron rod and proper/thorough investigation of the case. Therefore the petition may be dismissed.

The Courts have been granted power to grant anticipatory bail to protect against motivated criminal litigation instituted at the instance of unscrupulous litigants animated by malice or political vendetta. Grant of anticipatory bail is an extra-ordinary remedy and is

not, therefore, intended to be granted in every case. Number of factors including nature and gravity of the offences, quantum of sentence, likelihood of the accused absconding, intimidating or influencing the witnesses or tempering with the evidence or committing similar offences have to be taken into consideration.

In the present case, the petitioner is alleged to have given blow on the head of Akashdeep Singh with iron rod with an intention to kill him and as per the medical opinion, the injury on the person of Akashdeep Singh was found to be dangerous to life. The petitioner has taken the plea of alibi but has not produced any material in support of the same.

Keeping in view the facts and circumstances of the case, the fact that thorough investigation of the crime committed is required and custodial interrogation of the petitioner is necessary for recovery of the weapon of offence, collection of material evidence and also keeping in view the possibility of the petitioner influencing the witnesses or tempering with evidence and also fleeing from justice, I am of the considered view that the petitioner does not deserve the concession of anticipatory bail.

In view of the above discussion, the petition is devoid of any merit and is accordingly dismissed.

21.08.2020

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No