

CRM-M-29020-2020

Date of decision: 28.09.2020

GURMEJ SINGH

.....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGIPresent : Mr. Balbir Singh Jaswal, Advocate
for the petitioner.Mr. Pawan Sharda, DAG, Punjab
for respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (first) petition under Section 438 of the Cr.P.C. for grant of anticipatory bail in case FIR No.153 dated 03.06.2020 registered under Sections 452, 326, 323, 148 and 149 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station Jandiala, District Amritsar.

The above said FIR was registered on statement of complainant Avtar Singh who alleged that on 13.05.2020 somebody cut the volley ball net near water tank in the village. The respectables of the village gathered there. He, his brother Balkar Singh alias Kaka and Master Gurminder Singh, who is blind, were also present in the gathering. Accused-Gurmej Singh insulted Master Gurminder Singh.

The complainant alongwith his brother and other respectables stopped Gurmej Singh from doing so and then all of them returned to their houses. On the same day, in the evening, when the complainant was returning home after attending the shagun ceremony of son of Jaswinder Singh, Gurmej Singh armed with *datar*, Sukh armed with brick bat, Mangal Singh armed with *kirpan* and Kewal Singh, Simranjit Singh and Sajan Singh all three armed with sticks were present in the street. Simranjit Singh raised lalkara for teaching him a lesson for altercation with Gurmej Singh. Thereafter, Gurmej Singh gave *dattar* blow aiming the complainant who raised his arms to ward off the blow which hit on wrist of his left arm. Sukh gave brickbat blow on forehead of the complainant. The complainant ran to his house to save himself but all the accused persons trespassed into his house and threw the complainant in the courtyard. Kewal Singh gave stick blow on his left arm. When the complainant raised alarm, his brother Balkar Singh and his cousin Hira Singh came to rescue him on which the accused persons fled from the spot with their respective weapons.

Apprehending his arrest, the petitioner has filed the present petition for grant of anticipatory bail.

Vide order dated 22.09.2020 the complainant was ordered to be impleaded as respondent No. 2 and notice was ordered to be issued to him but respondent No. 2 did not appear despite service.

The petition has been opposed by learned State Counsel but no reply has been filed by the State.

I have heard learned Counsel for the petitioner and learned

State Counsel and gone through the relevant record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. FIR was lodged with undue and unreasonable delay of more than 21 days. Injury attributed to the petitioner is on non vital part of the body of complainant. The petitioner is ready to join the investigation and his custodial interrogation is not necessary in the case.

On the other hand learned State Counsel has submitted that grievous injury caused with sharp edged weapon on left arm of the complainant is attributed to the petitioner. Custodial interrogation of the petitioner is required for thorough investigation of the case. The petitioner does not deserve grant of anticipatory bail and the petition may be dismissed.

In P. Chidambaram v. Directorate of Enforcement (SC)
: 2019(4) R.C.R.(Criminal) 875 Hon'ble Supreme Court observed as under :-

“67. Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. Power under Section 438 Cr.P.C., 1973 is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy.”

In **Jai Prakash Singh v. State of Bihar and another (2012) 4 SCC 379**, Hon'ble Supreme Court held that anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty. (See also **D.K. Ganesh Babu v. P.T. Manokaran (2007) 4 SCC 434**, **State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain (2008) 1 SCC 213** and **Union of India v. Padam Narain Aggarwal (2008) 13 SCC 305.**)

Keeping in view the above referred legal perspective, the facts and circumstances of the case, nature of accusation against the petitioner, the role attributed to him, the fact that grievous injury caused with sharp edged weapon on left arm of the complainant is attributed to the petitioner and also that his custodial interrogation is required for thorough investigation of the case, I am of the considered view that the petitioner does not deserve grant of anticipatory bail.

In view of the above discussion, the present petition for grant of anticipatory bail to the petitioner is dismissed.

28.09.2020
kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

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