

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

101

CRM-M No.31619 of 2020

DATE OF DECISION : 8th OCTOBER, 2020

Charanjit Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

=====

In virtual Court

=====

Present : Mr. Lakshay Bector, Advocate for the petitioner.

* * * *

RAJBIR SEHRAWAT, J. (Oral)

The present petition has been filed by the petitioner under Section 438 Cr.P.C for grant of anticipatory bail in case FIR No.114 dated 29.06.2020 registered under Sections 452, 232, 324, 148, 149 & 506 IPC at Police Station Sahnewal, District Ludhiana.

The allegations against the petitioner are that the petitioner along his co-accused entered into the room of the complainant at about 7.45 pm and caused injuries with sharp edged weapon. The reason stated by the complainant for this alleged attack by the petitioner and his accomplice, is that earlier the complainant had given evidence in a case against the present petitioner. Accordingly, the present FIR was got registered by the complainant.

It has been submitted by the counsel for the petitioner that the case against the petitioner is totally concocted. The petitioner was not even present at the spot at the time of alleged occurrence. It is

further submitted that even as per the allegations of the complainant, the injuries attributed to the petitioner is simple in nature. The co-accused of the petitioner have already been granted concession of anticipatory bail. The petitioner shall also join the investigation. Hence, the petitioner deserves to be protected against his arrest.

Notice of motion.

Mr. Pawan Sharda, Sr. DAG, Punjab, accepts notice on behalf of the State.

Learned State Counsel, on instructions from ASI Gurmeet Singh, has submitted that the petitioner has specifically been named in the FIR. In fact, the petitioner is the main accused, who caused injuries to the complainant with sharp edged weapon. As many as five injuries have been caused to the complainant, out of which two injuries with sharp edged weapon, are attributed to the petitioner. It is further submitted that the police have to recover the weapon of offence from the petitioner. The case is at the initial stage. Therefore, the custodial interrogation of the petitioner is imperative. Hence the petitioner does not deserve any concession of bail.

No doubt, the accused as a citizen has a fundamental right to life and liberty. However, that right to life and liberty can very well be curtailed in accordance with the procedure established by law. As per the procedure prescribed for Criminal Administration of Justice, the normal procedure for curtailing the life and liberty of the accused, Cr.P.C. prescribes that the Investigating Officer can arrest an accused even without warrant and without assistance/interference of the Court. However, to ensure that a person is not unduly harassed, at least in those cases, where the circumstances are leading, predominately, towards ex-facie innocence of the accused, the Courts have been given special and

extra-ordinary power under Section 438 Cr.P.C. This statutory power of granting pre-arrest bail is so extraordinary that it is not even available in all parts of the country; and it is not available even through-out the country qua some offences under some special statutes. Hence, right to get anticipatory bail is not any fundamental right. The provision of Section 438 Cr.P.C. provides only a remedy to an accused and leaves the extent of right to liberty to be decided by the Court.

Coming to the facts of the present case, this court finds that there are specific allegations against the petitioner qua having caused injuries to the complainant with sharp edged weapon. As per the allegation it is the petitioner only, who was leading the entire team of miscreants. The reason alleged by the complainant for this alleged attack made the incident more serious; because the reason for attacking the complainant is that he had earlier deposed against the present petitioner in another case. Therefore, this court does not find any *ex-facie* innocence on the part of the petitioner vis-à-vis the allegations levelled against him. Moreover, the petitioner is alleged to have caused injuries with sharp edged weapon which is also required to be recovered by the police. Therefore, if the petitioner is protected against his arrest the free and fair investigation of the case likely to be hampered. Hence, this court does not find this to be a fit case to exercise its power under Section 438 Cr.P.C so as to protect the petitioner against his arrest.

Although, the counsel for the petitioner has submitted that the co-accused have already been granted concession of anticipatory bail, however, a bare perusal of the allegations and the injuries attributed to those co-accused altogether different as compared to the allegations and injuries attributed to the present petitioner. Therefore, there is no parity

between the petitioner and the co-accused, so far as the aspect of the grant of anticipatory bail is concerned.

In view of the above, but without commenting anything more on merits of the case, the present petition is dismissed.

8th OCTOBER, 2020
'raj'

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>