

Sr.No.116

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

**CRM-M-38307 of 2020
Date of decision:19.11.2020**

Harbans Singh and another

... Petitioner(s)

versus

State of Punjab

... Respondent (s)

Coram: Hon'ble Mr. Justice Jasgurpreet Singh Puri

Present: Ms. Jasneet Mehra, Advocate
for the petitioners.

Through Video Conference

Jasgurpreet Singh Puri, J.(Oral)

Present petition has been filed seeking anticipatory bail under Section 438 Cr.P.C in FIR No.154 dated 10.09.2020 registered under Sections 307, 323, 353, 186, 341, 427, 148, 149, 506 IPC lateron added Sections 295-A, 332, 333, 325 IPC and Section 3 of Prevention of Damage to Public Property Act at Police Station Koom Kalan, District Ludhiana.

As per the FIR it was lodged on the basis of statement made by ASI Baldev Singh that when he was posted as Investigating Officer at Police Station Koom Kalan, District Ludhiana then at around 9:00 PM when he received information that in village Balliawali because of old enmity two parties were fighting and on the spot the employees of PCR-74 and other police officials were present who have tried to make understand the persons fighting but the mob had collected and they have damaged the motor cycle of the employees of the PCR. On receiving this information, complainant ASI Kuldeep Singh alongwith other police personnel reached the spot where

other men and women had gathered At that place one Gurpreet Singh @ Gopi who is son of Harbans Singh present petitioner No.1 gave lalkara and instigated by giving a speech to the people to attack the police party. Thereafter, Sunny Kumar who is petitioner No.2 and is also son of petitioner No.1 alongwith 40-50 persons in connivance with each other and with an intention to kill, surrounded the police party and attacked them. Thereafter, Gurpreet Singh @ Gopi gave stick blow to the complainant ASI Kuldeep Singh on his head and when the said complainant raised his right hand and tried to save himself and stick blow landed on his right hand. Thereafter, petitioner No.1 Harbans Singh gave a stick blow to ASI Kuldeep Singh towards his head and ASI Kuldeep Singh raised his right hand and the blow landed on his right hand. In the mean-time, out of the mob, other persons also came and started giving blows and the complainant ASI was injured.

Learned counsel for the petitioner has argued that in the present case, the name of the petitioners were wrongly mentioned in the FIR as it was a case where there was no role attributed to the petitioners. She has further submitted that when the PCR came then the police officials rather protected the other party consisting of Gurpreet Singh and so far as the petitioners are concerned they were not involved in inflicting any injuries to the ASI. She has also relied upon the order passed by the Co-ordinate Bench of this Court vide Annexure P-3 in which two of the co-accused namely, Pooja Rani and Sunil Kumar @ Sheela had been granted anticipatory bail by this Court vide order dated 29.10.2020 in **CRM-M-34792 of 2020**. Therefore, she has prayed for grant of anticipatory bail in the present case.

Notice of motion.

On asking of the Court, Mr. Avtar Singh Sandhu, Addl.AG, Punjab accepts notice on behalf of the State and on instructions from ASI Ashok Kumar has opposed the grant of anticipatory bail on the ground that the matter was very serious in nature. Infact the injuries have been inflicted upon the police official who is complainant in the present case. He has referred to injuries number 2 and 3 which were on the hand of the police official and both of them have been declared as greivous. The injury No.2 on the right hand of the ASI Kuldeep Singh was inflicted by one Harbans Singh (petitioner No.1) and the one by Sunny (petitioner No.2). He has further submitted that later on Sections 295-A, 332, 333, 325 IPC and Section 3 of Preventionf of Damage to Public Property Act 1984 has also been added in the present case. He has therefore, prayed that large number of people gathered together which although may be of fight between two groups but they had attacked the police party and injuries have been caused to police personnel and therefore, it is not a fit case for grant of anticipatory bail as custodial investigation is required in the present case for the recovery of weapons and other material.

I have heard the learned counsel for the parties.

Even perusal of the FIR itself would make it clear that direct role has been attributed to both the petitioners and injured is ASI Kuldeep Singh who is complainant in the present case who had come to resolve the fight on the basis of information received from other police officials and attack was made by a large number of people on police official. The nature of injuries which have been attributed to the petitioners are also matter of concern.

Reliance has been made on Annexure P-3 which is anticipatory bail order passed by the co-ordinate bench of this Court is of co-accused namely, Pooja Rani and Sunil Kumar @ Sheela are concerned. A perusal of the order would show that it has been observed that it is not in dispute that no injury is attributed to either of the petitioners and the only attribution to petitioner No.1 is that he damaged the uniform of the complainant at his shoulder and the attribution to petitioner No. 2 is that merely being present at the spot. Therefore, the anticipatory bail in the other case was granted to those petitioners can not become a ground for grant of anticipatory bail on the basis of parity because those two petitioners were apparently not at parity with the present petitioners. Therefore, the facts and circumstances of the present case qua the present petitioners are to be seen on its own merits.

The above facts of the case would suggest that certainly very serious offence has been made and allegation if taken to be true would be affecting the society at large. It is a case where police official has been attacked by a large number of people together and injuries have been caused. Direct role as well as injuries have been attributed to the petitioners which has been explained by the learned State counsel. Therefore, custodial investigation would be required for recovery of weapons and the articles. Therefore, without making any observation on the merits of the case, this Court finds that this case is not a fit case for grant of anticipatory bail to the petitioner. Consequently, present petition is hereby dismissed.

However, nothing stated hereinabove, shall be construed to be an expression on the merits of the case.

19th November, 2020

Shivani Kaushik

[JASGURPREET SINGH PURI]

JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No