

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

CRM-M-43592-2019
Date of Decision:-3.3.2020

BALKAR SINGH @ KARA

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Pardeep Singh Mirpur, Advocate
for the petitioner.

Ms. Rashmi Attri, AAG, Punjab.

GURVINDER SINGH GILL, J.

1. The petitioner has approached this Court seeking grant of anticipatory bail in a case registered against him vide e FIR No.146 dated 28.5.2019 under Sections 324/323/148/149 IPC (Sections 325 & 308 IPC added later on vide DDR No.29 dated 9.9.2019) registered at Police Station Talwandi Sabo, District Bathinda.
2. The FIR in question was lodged at the instance of Baltej Singh wherein it has been alleged that on 11.5.2019 when he along with his son Raj Karan Singh @ Kala was irrigating his fields, then complainant's elder son Rajwinder Singh accompanied by Sarwan Singh, Balkar Singh, Nasib Kaur @ Lakhvir Kaur and Jasveer Kaur, Tek Singh, Gurcharan Singh and

one unknown person came there and caused injuries to the complainant and to his son Raj Karan Singh. It is alleged that Rajwinder Singh gave a blow with 'gandasi' on the left leg of the complainant. Sarwan Singh is stated to have given a blow with axe hitting the complainant's head. Balkar Singh is alleged to have given a 'Daang' blow on the complainant's left ear and also on his back. When the complainant's son Raj Karan Singh @ Kala tried to rescue him then he was also caused injuries by accused with axe, 'gandasi' and sticks.

3. It has been submitted by learned counsel for the petitioner that the present dispute is in fact a dispute amongst members of the same family pertaining to possession of land and that the entire family of the accused including lady members and minor children have been implicated in the FIR. It has further been submitted that the petitioner happens to be a juvenile having been born in the year 2003 as would be indicated from the AADHAR card (Annexure P-1). It has also been submitted that even if the allegations are taken to be correct, no offence under Section 308 IPC can be said to be made out.
4. Opposing the petition, learned State counsel has submitted that a perusal of the FIR would show that the petitioner was armed with a '*Dang*' and is alleged to have been inflicted injury on the ear and back of the complainant. It has further been submitted that in fact the injury found on the leg of the complainant has already been declared as a grievous injury and since even Raj Karan Singh has sustained as many as six injuries, no special case for grant of anticipatory bail is made out.

5. I have considered rival submissions addressed before this Court. A perusal of MLR in respect Baltej Singh would reveal that he had sustained five injuries out of which the injury on his leg was declared to be grievous injury. Although he had also sustained simple injury on head but it cannot be said that he had sustained any injury on his ear as is alleged to have been caused by petitioner. A perusal of MLR does show that he has sustained one simple injury on his back, which is attributed to petitioner, as per FIR.
6. It needs to be noticed that in the present case one of the accused namely Rajwinder Singh (non-applicant) has also sustained three simple injuries on his person including lacerated wound above right eyebrow, which was found to be bleeding and regarding which no explanation is forthcoming in FIR. Keeping in view the aforesaid facts and circumstances especially that the petitioner is *prima facie* found to be a juvenile since his year of birth as per AADHAR card is '2003' and that one of the accused has also sustained injuries, it would be debatable as to whether the accused were aggressor or not. Since the petitioner, in any case, is stated to have joined investigation, the facts certainly do not warrant his custodial interrogation.
7. The petition, as such, is accepted and the interim directions issued by this Court vide order dated **15.10.2019** are hereby made absolute subject to the condition that the petitioner shall continue to appear before the Investigating Officer as and when called upon to do so and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

8. It is, however, clarified that none of the observations made above shall be construed to be an expression on merits of the main case.

3.3.2020
Gaurav Sorot

(GURVINDER SINGH GILL)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No