

CRM-M-1551-2021 (O&M)

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

**CRM-M-1551-2021 (O&M).
Decided on: February 5, 2021.**

Navjot Singh

.. Petitioner

VERSUS

State of Punjab

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Deepak Arora, Advocate,
for the petitioner.**

Mr.Luvinder Sofat, AAG, Punjab.

**Mr.Kiran Kumar, Advocate,
for the complainant.**

JASGURPREET SINGH PURI, J. (ORAL)

Through Video Conference

The present petition has been filed under Section 438 of the Code of Criminal Procedure, for the grant of anticipatory bail in FIR No.274 dated 19.9.2020, under Sections 307, 452, 323, 324, 148 and 149 IPC, (Section 326 IPC added later on) registered at Police Station Division No.8, Jalandhar.

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The aforesaid FIR was lodged on the basis of statement of one Baljinder Pal Singh son of Inderjit Singh in which he stated that he runs a business of manufacturing sleepers by installing repair machines in his house. On 17.09.2020, the complainant and his brothers who are living in joint family in one house and the children of his younger brother were playing in the park outside the house. At about 7:00 P.M. a quarrel took place between the children and when his brother Tejinderpal Singh came to know about the same he brought the children back to the house after making them understand. Thereafter, 6-7 motorcycles/activa on which 10-12 unknown young men who were holding swords and datars raising raula came inside their house on account of door being open. These unknown boys were stopped by them who while raising lalkaras gave kirpan and datar blows to the complainant and the other family members with an intention to kill them. Thereafter, when alarm was raised they ran away from the spot along with the weapons and while running away their phones also fell down and the family members of the complainant with the help of the neighbour got admitted at Civil Hospital, Jalandhar where doctors done dressing on the wounds and after stitching the wounds admitted them for treatment and MLRs were also issued.

On the next date, after the X-rays were conducted, they got themselves admitted in HP Orthocare Hospital, Jalandhar for better treatment. It is further stated in the FIR that thereafter, the complainant came to know that one Money Sidhu (Navjot Singh – petitioner) and Atul residents of Aman Nagar, Jalandhar and the son of owner of Aryan Dhaba

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Pathankot Chowk, Jalandhar, namely, Pendu were associated with the persons who inflicted the injuries and regarding rest of their associates they were also enquiring and that they can recognize them in case they come in front of them.

It has been submitted by Mr. Deepak Arora, learned counsel for the petitioner that the petitioner has been falsely implicated in the present case particularly in view of the fact that petitioner has been named on the basis of the statement of co-accused and petitioner was not present at the spot. He has further submitted that it is not clear that who has inflicted injuries upon whom and therefore, has prayed for grant of anticipatory bail.

He has further submitted that neither his mobile phone nor his motorcycle has been recovered and further in the CCTV footage it can only be seen that he was passing from the spot.

Notice of motion was issued to the State of Punjab on 13.1.2021 and in response thereto, an affidavit was filed by the Assistant Commissioner of Police, Jalandhar.

In the affidavit, it has been stated that after the incident the injured were admitted in the Civil Hospital, Jalandhar, by their family members and neighbours, where they were medically examined. Thereafter, they were admitted in HP Otrhocare Hospital, Jalandhar. It is further stated in the affidavit that the complainant stated that they came to know that Navjot Singh @ Money Sidhu (petitioner) and Atul Don, resident of Aman nagar, Jalandhar and the son of the owner of Aryan Dhaba, Pathankot

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Chowk, Jalandhar, namely Pendu were associated with the persons who inflicted injuries and rest of their associates are still under inquiry. Complainant had further stated that they can recognize them in case they come in front of them. All these persons with an intention to kill them have inflicted injuries. It is further stated in the affidavit that after obtaining the statements of all the injured persons namely Baljinder Singh, Balraj Singh and Sukhwinder Singh, the investigating officer got registered the aforesaid FIR and so far as MLR showing of injured Baljinder Singh is concerned, he has sustained three injuries i.e. one on little finger of left hand, second on ring finger of left hand and third on back of left elbow and below the elbow joint. All the injuries were kept for observation for X-ray report and thereafter, injury No.1 was declared as grievous in nature vide Annexures R1 and R2.

So far as MLR of injured Balraj Singh is concerned, there were total 4 injuries i.e. (i) on the left forearm (ii) left arm (iii) left shoulder and (iv) back of left forearm. Injury Nos.1 and 3 were kept for X-ray examination. Injury Nos.1 and 2 were caused with sharp edged weapon and injury nos.3 and 4 were caused with blunt weapon and injury no.1 was declared as grievous in nature. X-ray report and MLR have been attached as R3 and R4.

So far as MLR of Sukhwinder Singh is concerned, he has suffered two injuries one on the back of left forearm and another on right side of face. Both injuries were kept for X-ray examination, however, injured has not got conducted X-ray of the injuries sustained by him.

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Thereafter, in pursuance of aforesaid FIR, thorough investigation was conducted and finding the allegations levelled against the accused to be substantiated with evidence, during the course of investigation, 5 motorcycles and one Aactiva Scooter were taken into police possession which were left by the assailants on the spot. Out of 5 motorcycles, one motorcycle bearing No.PB08-BF-7056, was found to be in the name of Varun son of Vipin Kumar, who is paternal uncle of co-accused Atul Don whose bail application has already been dismissed by this Court on 6.1.2021. Furthermore, during the course of investigation, video recording of entire incident and photographs were taken into police possession.

It is further stated in the affidavit that petitioner's nick name and address is specifically mentioned in the FIR, so the petitioner cannot take ground that his name is not mentioned in the FIR. Moreover, complainant categorically stated in his statement that petitioner (Money Sidhu) resident of Aman nagar, had caused injuries with other associates. Besides this, injured Balraj Singh also identified the petitioner through CCTV footage of the incident. It has been further stated in the affidavit that the petitioner is a habitual offender and there are 3 FIRs against the petitioner which are as follows:-

(i)FIR No.184 dated 6.12.2019, under Sections 323, 341/34 IPC, registered at Police Division No.8, Jalandhar.

(ii)FIR No.150 dated 2.6.2020, under Sections 323,

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324/34 IPC, registered at Police Division No.8, Jalandhar.

(iii) FIR No.244 dated 20.08.2020, under Sections 323, 324, 295, 506, 364, 148, 149 and 120-B IPC, registered at Police Division No.8, Jalandhar.

It has been further stated in the affidavit that the petitioner is still at large in FIR No.244 (supra). It is further stated in the affidavit that the name of petitioner Money Sidhu was found to be Navjot Singh son of Mukhtiar Singh resident of Vishkarma Colony, Jalandhar and nick name of the petitioner along with address has been specifically mentioned in the FIR but the person is one and the same. Furthermore, the name and address of unidentified assailants are yet to be found. The petitioner who was principal accused in the aforementioned occurrence can tell the name of other unidentified assailant and therefore, custodial investigation of the petitioner is required.

Learned State counsel has submitted that the matter is still at investigation stage and number of persons are involved in the present case and name of the petitioner is mentioned and direct allegations have been attributed to the petitioner. He has further submitted that custodial investigation of the petitioner is required and he is at large from the date of registration of the FIR i.e. for the last 4½ months. He has further submitted that it is a case where number of persons had attacked and three persons were injured and grievous injuries were caused. The submission made by

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the learned counsel for the petitioner that the motorcycle was not recovered would be subject matter of further investigation and would not become a ground for the grant of anticipatory bail to the petitioner. He has further submitted that the submission made by the learned counsel for the petitioner that the petitioner was only passing by is also a matter of investigation and cannot become a ground for the grant of anticipatory bail to the petitioner and therefore, he has prayed for the dismissal of the present petition.

I have heard the learned counsel for the parties.

At the outset, it has been noticed by this Court that co-accused namely Atul who has been named in the FIR, had filed CRM-M-37842-2020, and the same has been dismissed on 6.1.2021 by passing a detailed order. Furthermore, the argument raised by the learned counsel for the petitioner that his motorcycle was not recovered although he was seen in the CCTV footage but he was only passing by is also a matter of investigation and petitioner is at large for the last 4½ months. Petitioner is involved in 3 FIRs and he is at large in one of those FIRs. It is settled law that right of freedom has to be balanced with other factors i.e. the possibility of influencing the witness, tampering of evidence, possibility of fleeing from justice, recovery, if any, to be made from the petitioner and other like factors on the other hand.

In the present case, it is the categorical stand of the State that the matter is at investigation stage and 10-15 people had attacked three persons and caused grievous injuries and identification of other assailants is yet to be ascertained. Furthermore, petitioner is also involved in three other

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FIRs.

Consequently, considering the totality of the circumstances, this Court considers it fit and appropriate to decline the grant of anticipatory bail to the petitioner because in the present case from the facts and circumstances, custodial investigation of the petitioner would certainly be required. Accordingly, the present petition is dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

February 5, 2021.
raj arora

JASGURPREET SINGH PURI)
JUDGE

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