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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.22290 of 2021 (O&M)

Date of decision: 04.06.2021

Himanshu

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Khushbir K. Bhullar, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Ms. Ravinder Kaur, Advocate
for the complainant/respondent No.2.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No.003 dated 07.01.2021 registered under Sections 307, 323, 324, 148, 149 IPC and 25, 27 of the Arms Act (Section 326, 325 IPC added later) at Police Station City Batala, District Batala.

Counsel for the petitioner has argued that the FIR was registered on the statement of one Gozi Kalyan with the allegations that on 03.01.2021, he along with brother Bharat Kalyan had gone to the office of their father and when they were on the street, Ajay son of Joginder Pal and 16 other persons including the petitioner, who were armed with datar caught hold of them. Ajay has given a datar blow on his head with intention to kill him. Chetan gave a datar blow on the right side of the head and Himanshu (petitioner herein) took out his pistol from his dab and hit the same on his nose with the pistol butt.

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Similarly, the other accused persons have also caused injuries to the victims Gomzi Kalyan and his brother Bharat Kalyan.

Counsel for the petitioner has further submitted that in the first part of the FIR, it is stated that all the accused were armed with datar, however, the only allegation in the FIR is that the petitioner took out a pistol from his dab and caused injury on the nose of the victim – Gomzi Kalyan with the pistol butt.

Counsel for the petitioner has placed on record the medico legal report of Gomzi Kalyan to argue that as per the MLR, injury No.3 was a lacerated wound on the root of the nose and was subjected to X-ray and thereafter, the doctor has given an opinion that the same was declared simple in nature whereas the other injuries attributed to the co-accused were declared grievous in nature.

Counsel for the petitioner has relied upon some orders passed by this Court vide which 05 co-accused have been granted the concession of anticipatory bail.

In reply, counsel for the State assisted by counsel for the complainant has, however, submitted that in the statement of the co-accused Bharat Kalyan recorded under Section 161 Cr.P.C., it has come that the petitioner has caused injuries on his head with a datar, which was declared dangerous to life collectively with another injuries.

Counsel for the complainant has further argued that the anticipatory bail application of 02 of the co-accused has already been dismissed, who were attributed grievous injuries.

In reply, counsel for the petitioner has argued that in the FIR there is no mention that the petitioner has caused injuries to his

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brother Bharat Kalyan as in the later part of the FIR, it is stated that the petitioner again pointed out his pistol towards the complainant.

Counsel for the petitioner has, thus, argued that it will be a matter of trial whether the petitioner was armed with datar or with a pistol as per the allegations in the FIR.

After hearing the counsel for the parties, I deem it appropriate to grant the concession of anticipatory bail to the petitioner.

Accordingly, the present petition is allowed and the petitioner is directed to join the investigation within a period of 10 days from today and he shall be released on interim bail subject to the following conditions:-

- 1. He shall make himself available for interrogation by a police officer as and when required;*
- 2. He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and*
- 3. He shall not leave India without previous permission of the Court.*

(ARVIND SINGH SANGWAN)
JUDGE

04.06.2021
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No