

Sr.No.201

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

CRM-M-18091 of 2020

Date of decision:04.01.2021

Akwinder Singh

... Petitioner(s)

versus

State of Punjab

... Respondent (s)

Coram: Hon'ble Mr. Justice Jasgurpreet Singh Puri

Present: Mr. S.K.Choudhary, Advocate
for the petitioner.

Mr. Mehardeep Singh Dulat, Addl.AG, Punjab.

Through Video Conference

Jasgurpreet Singh Puri, J.(Oral)

Present petition has been filed for seeking anticipatory bail in
FIR No.127 dated 28.10.2019 registered under Sections 307, 324, 323, 342,
148, 149 later on added 365 IPC at Police Station Division No.2, Distrit
Pathankot.

The facts come forth from the FIR are that on the statement of
Harjinder Singh son of Satpal resident of Fatehgarh, Police Station Sadar
Pathankot who stated that he does the work of labour and on 27.10.2019, his
younger brother Romi (injured) who has a disc problem was coming from

Pathankot alongwith his uncle on motorcycle for taking the medicine and the the motorcycle was being driven by Kulwinder Singh (uncle) and the complainant was also following them on motorcycle. At about 10:30 am when he saw behind the cremation ground of Dhera, some voice out of which Dilpreet Singh son of Surjit Singh who was having Dattar, his father Surjit Singh @ Bitta son of Gulzar Singh, who was having iron rode, Jatender Singh @ Ketan son of Amarjeet Singh armed with Dattar, Randev Saini @ Sabi son of Jaswant Singh armed with Dattar, Akhwinder Singh (petitioner) son of Satpal Singh was armed with iron rod, Sandeep Kumar son of Satpal who was armed with iron rod who are all residents of Mirzapur Sagar and one another person namely, Sagar resident of Dheera Jatta armed with iron rod and some other unidentified persons were coming having dangs had encircled his brother Romi(injured) and caused injuries with their weapons and were saying in a louder voice that you should not be escaped free and that he may be killed to teach a lesson for taking quarrel with them. Thereafter, his brother fell down on ground while raining alarm that all these persons took his brother Romi and went to Dhira Jattan where he raised alarm. Later on he came to know that they have taken his brother to the house of Dilpreet Singh and they have kept his brother on the cart in the house in injured condition. On hearing the alarm, police came to the spot

and took his brother Romi(injured) to Civil Hospital, Pathankot for treatment where his brother was under treatment and because of severe injuries he was not in a condition to talk.

Notice of motion was issued in this case on 09.07.2020 and the State of Punjab has filed its Status Report by way of an affidavit of Deputy Superintendent of Police, City, Pathankot.

Learned counsel for the petitioner has argued in the present case that the petitioner was not involved in the alleged crime and that even as per the Status Report which has been filed by the State, it has been stated that the injury No.6 which is attributed to the petitioner is simple in nature and therefore, he has prayed for the grant of anticipatory bail to the petitioner. He has further submitted that one of the main co-accused namely, Jatinder Singh @ Ketan has been granted regular bail by this Court and therefore, the anticipatory bail of the petitioner may also be considered accordingly.

On the other hand, learned State counsel has referred to the Status Report filed by the State and submits that it is a case where the injure namely, Romi was mercilessly beaten up by group of persons including the petitioner at three different places. The condition of the injured further deteriorated and thereafter, he was referred for urgent Dialysis and for further management by the Guru Nanak Dev Hospital Amritsar on

02.11.2019. Thereafter, the injured was got admitted to IVY hospital Amritsar on 03.11.2019 with the case of CKD acute deterioration for urgent Dialysis and remained admitted in the IVY hospital till 09.11.2019, where the S.creatinine adumner of injured Romi was 23 and he was evaluated for renal dysfunction and USG abdomen was done which was showing altered CMD of both kidneys as per opinion of Doctor. Learned State counsel has further refered to Para No.3 of the Status Report wherein it has been stated that since the doctors had not declared the injured fit to give statement, therefore, the statement of the injured was recorded on 16.11.2019 in which he disclosed the fact that on 27.10.2019 at about 10:30 AM petitioner was carrying iron rod waiting alongwith other co-accused with their respective weapons and injured was badly beaten by some of the accused. The injured Romi ran away from the spot but all the accused person along with the present petitioner chased the injured Romi. Thereafter, the injured Romi crossed the Canal but was pulled to some fields and inflicted blow by the petitioner and other co-accused. The petitioner inflicted blow on the knee of right leg with iron rod. He was taken to the house of Dilpreet Singh by the petitioner and all other co-accused where Dilpreet Singh and Randev Saini injected an injection to each leg of injured and due to injuries and injecting of injection, the injured Romi became unconscious. As such the injured was

forcefully kidnapped by the petitioner along with other person and taken to the house of Dilpreet Singh and therefore, Section 365 IPC was added in the present FIR.

Learned State counsel has further referred to para No.4 of the Status Report wherein it has been stated that Board of Doctors was framed on 03.12.2019 at the Civil Hospital Pathankot where all the medical reports of injured Romi was given where doctors gave the opinion that injury no.6 which was attributed was simple in nature. Board of Doctors has given information based on the record of hospitals. He has further submitted that Challan has already been presented on 13.04.2020 and name of the petitioner is mentioned in Coloumn No.2 but the petitioner is yet to be arrested and case is pending before the learned Trial Court for framing of the charges against whom the challan was presented. He has further submitted that petitioner can tamper the prosecutione evidences and more-over the petitioner is yet to be arrested in the present case. Learned State counsel has submitted that it is a case where gang of persons attacked the injured and caused severe injuries and the mere fact that the petitioner was armed with only iron rod or even if the role attributed to the petitioner is injury which is simple in nature would not entitle the petitioner for anticipatory bail on this ground. He has submitted that recovery of the weapon which the petitioner

was carrying is yet to be recovered and since the matter is of an acute serious nature the petitioner does not deserve the grant of anticipatory bail he has further submitted that not only the recovery is yet to be made in this case but also the petitioner is yet to be arrested and in case he is not arrested then he may tamper the record and he may influence the witnesses.

I have heard the learned counsel for the parties and perused the available record.

From the facts of the case the allegations are that the petitioner alongwith other number of persons had attacked one person namely, Romi at three different placed and he was seriously injured and admitted to hospital and he had undergone dialysis at different stages and both his kidneys have also been effected. Two of the co-accused had allegedly given injection on the legs of the injured. As per the prosecution story gang of persons had attacked the injured included the petitioner who was allegedly carrying iron rod. The present occurence had taken place on 27.10.2019 which is about one year and two months but the petitioner is still at large and he has not been arrested. The police has completed the investigation process and has presented the challan against the three accused who could be apprehended and so far as the petitioner is concerned challan could not be presented against him because he was absconding. It is a case of the State that

recovery of iron rod is to be made from the petitioner particularly in view of the fact that the injured has stated that the petitioner was carrying iron rods and had inflicted injuries upon him. Furthermore, it is a case of the State and also it has been stated in the affidavit filed by the State that in case the petitioner is granted anticipatory bail then there is likelihood that he may tamper with the prosecution evidence. The first argument raised by learned counsel for the petitioner that one of the co-accused had been granted bail by the co-ordinate bench of this Court would not be of any significance in view of the fact that co-ordinate Bench has granted regular bail to the co-accused and not the anticipatory bail and therefore, the petitioner could not be put at parity with the other co-accused. The second argument raised by learned counsel for the petitioner that the injury attributed to the petitioner was simple in nature would also be of no significance in view of the fact that it is a case where group of persons including some of the persons who are not yet even identified have allegedly caused grievous injuries to the injured Romi and as per the affidavit filed by the State the petitioner had played an active role in the incident.

Therefore, the argument raised by learned counsel for the petitioner does not carry any weight. In view of the totality of the

circumstances of the case, I am of considered opiniion that it is not a fit case

for intererence.

Consequently, the present petition is dismissed. However,

nothing stated hereinabove, shall be construed to be an expression on the

merits of the case.

4th January, 2021

[JASGURPREET SINGH PURI]

Shivani Kaushik

JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No