

CRM-M-22719-2021 (O&M)

Through video conference

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

**CRM-M-22719-2021 (O&M).
Decided on: September 30, 2021.**

Rahul Sharma

.. Petitioner

VERSUS

State of Punjab

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Nirmaljeet Singh Sidhu, Advocate,
for the petitioner.**

Mr.Randhir Singh Thind, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 438 of the Code of Criminal Procedure, for grant of anticipatory bail in GDR No.30 dated 15.12.2017, under Sections 323, 324 and 506/34 IPC (Section 326 IPC added later on), registered in FIR No.166 dated 15.12.2017, under Sections 452 and 323/34 IPC, Police Station Phul, District Bathinda.

Learned counsel for the petitioner has submitted that it is a case where the petitioner has been falsely implicated and rather it was a

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cross-case and complainant party was the aggressor party. He has further submitted that the petitioner and other persons belonging to his party had received injuries in the fight. He has further submitted that section 326 IPC has been added later on after a period of 2½ years as the alleged incident took place in the year 2017 which is almost 3½ years ago. He has submitted that on 29.6.2021, this Court had granted interim protection to the petitioner subject to his joining investigation. He has submitted that in pursuance thereof, the petitioner has joined investigation and has fully cooperated with the investigation process and therefore, order dated 29.6.2021, may be made absolute.

Learned State counsel, on instructions, has submitted that in pursuance to order dated 29.6.2021, the petitioner has joined investigation. However, recovery of the weapon is yet to be effected.

Answering to the submissions made by the learned State counsel, it has been contended by the learned counsel for the petitioner that there is no weapon which is to be recovered from the petitioner and in fact, the other party was the aggressor party and now after a period of 3½ years, the petitioner cannot be denied the benefit of anticipatory bail only on the hypothetical objection taken by the State that the recovery of the weapon is to be made after 3½ years. He has submitted that the petitioner is not involved in any other case and his fundamental rights are affected in case the petitioner is taken into custody despite the fact that he has already joined the investigation.

I have heard the learned counsel for the parties.

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The alleged incident took place in December 2017 and the petitioner in pursuance to the order passed by this Court has already joined investigation. The objection taken by the learned State counsel that the weapon has not been recovered from the petitioner cannot become a ground for denial of anticipatory bail to the petitioner in the facts and circumstances of this case because as per the learned counsel for the petitioner, the petitioner was not the aggressor party and rather the petitioner and other persons of his party had received injuries and therefore, the argument raised by the learned counsel for the petitioner has some weight.

In view of above, I deem it fit and proper to allow the present petition. Consequently, the present petition is allowed. Interim order dated 29.6.2021 vide which the petitioner was granted interim protection is hereby made absolute.

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.

September 30, 2021.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No