

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.34008 of 2020
Date of Decision: February 24, 2021

Abhi Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Amritpal S. Sohal, Advocate for
Mr. Gursharan Singh, Advocate,
for the petitioner.

Mr. Manpreet Singh Nagra, AAG, Punjab.

MANOJ BAJAJ, J. (Oral)

This petition has been filed by the petitioner under Section 438 Code of Criminal Procedure for grant of anticipatory bail in case FIR No.130 dated 13.07.2020, under Sections 307, 452, 379, 323, 324, 326, 148 and 149 IPC, 1860, registered at Police Station, Division No.3, Jalandhar, District Jalandhar. The petitioner apprehended his arrest at the hands of police, in the above FIR.

The contents of the FIR as noticed by the Additional Sessions Judge, Jalandhar in his order dated 08.10.2020 are as under:-

“Brief facts of the case of the prosecution are that the present FIR has been registered on the statement of complainant Abhishek Gandhi. As per the versions of prosecution, the allegations made by the complainant in the FIR are that he along-with his father Neeraj Kumar were present in their shop

constructed in their house. On 13.07.2020, at about 6:00 PM, 7 to 8 young boys came on the motorcycle and forcibly tress passed into their house by making loud noises (lalkara) along-with the deadly weapons such as Datar, Kirpan, Chhuri, Khande and Panch by saying that won't leave them alive and they attacked upon the complainant and his father with deadly weapons. The accused persons namely Jatin Mattu armed with Datar, Pankaj armed with “Datar, Kaku armed with Khanda, Shivam London armed with Khanda, Nitin armed with Panch, Shiv Nahar armed with Khanda and other 1-2 unknown boys, who after tress passing into their house, firstly, Jatin Mattu had given a Datar blow to the father of the complainant, which hit on the head and left hand of his father. Pankaj had also given a datar blow, which hit on the right hand of the father of the complainant sustaining injuries on his person and fell on the ground due to bleedings. Kaku had given a kirpan blow to the complainant, which hit on the left side of the head of the complainant. Shivam London gave Khanda blows to the complainant, which hit on the left arm and back of the complainant. Shiv Nahar had given a Khanda blow to the complainant, which hit on the left hand of the complainant. Nitin had given many panch blows on the persons of the complainant resulting into the complainant sustaining injuries and fell on the ground and all the aforesaid accused had given multiple kicks on the person of the complainant and his father. The complainant raised hue and cry and the aforesaid accused ran away from the spot on their motorcycles with their respective weapons and committed theft of Rs.20,000/- from the drawer of the shop. Accordingly the FIR was registered against the accused.”

Learned counsel for the petitioner contends that though the petitioner is named in the FIR, who was armed with khanda, but according to prosecution itself, he caused simple injury to complainant. He submits that the offence punishable under Section 307 IPC relates to the injury

suffered by Neeraj and is attributed to his co-accused. According to him, in the given facts, the custodial interrogation of the petitioner may not be necessary as he is willing to join the investigation.

The prayer is opposed by the learned State counsel on the ground that the petitioner is a proclaimed offender and, therefore, does not deserve the concession. He submits that the petitioner is specifically named in the FIR and as per the allegations, he participated in the crime and, therefore, his custodial interrogation would be necessary.

At this stage, learned counsel for the petitioner submits that the petitioner had earlier filed his application for pre-arrest bail before the court of sessions and the same was declined on 08.10.2020 and after that, he approached this Court on 21.10.2020 and during the pendency of the present petition, the petitioner has been declared as proclaimed offender. According to him, since the petitioner is already before the court seeking his remedy in law, therefore, the said order has no bearing on the merits of the case.

After hearing the learned counsel for the parties, this court finds that as per prosecution, the accused persons, including the petitioner forcibly entered the house of the victims and caused injuries upon Neeraj and his son Abhishek. In the said occurrence, Neeraj suffered five injuries, who was operated upon as his hand was nearly chopped off. His son Abhishek also suffered injuries and the petitioner allegedly armed with khanda gave a blow on his head. As per prosecution, the petitioner was a member of unlawful assembly and shared common object with his co-accused and actively participated in the alleged crime, therefore, considering the serious nature of the offences and injuries, this court finds

that the petitioner does not deserve the extra-ordinary concession of pre-arrest bail.

Resultantly, the petition is dismissed.

February 24, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No