

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-44282-2021

Date of Decision: 15.11.2021

Sukhjinder Singh @ Sukhwinder Singh

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. P.P.S. Duggal, Advocate, for the petitioner.

Mr. Arun Kumar Kaundal, Deputy Advocate General, Punjab.

Mr. Amandeep Singh Saini, Advocate, for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

Status report by way of affidavit of Jora Singh, Deputy Superintendent of Police, Sub Division Fazilka, District Fazilka has been filed on behalf of State of Punjab, which is taken on record.

The learned counsel for the petitioner has been supplied a copy of the status report in the pre-lunch session and he has stated that he has perused the same.

The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in FIR No. 194 dated 20.07.2021, under Sections 452, 325, 324, 323, 506, 148, 149, 326 IPC, registered at Police Station Sadar Fazilka, District Fazilka.

As per the allegations contained in the FIR which was lodged on

the basis of statement made by the complainant namely Simar Pal Singh son of Hakam Singh that he was repairing the mobile at his shop and it was around 8.15 P.M when Raghuveer Singh son of Lakhwinder Singh armed with Kappa and Sukhwinder Singh son of Satnam Singh (petitioner) armed with sword and both residents of Chandmari alongwith 6-7 more unknown persons with them armed with Kappas and swords suddenly came into his shop and on entering in the shop they started damaging the articles lying in the shop and on being stopped from doing so, the aforesaid Raghuveer Singh with his kappa gave four blows on him which struck upon the right wrist and above the elbow and shoulder and then Sukhwinder Singh (petitioner) with his sword gave three blows conjunctively which struck upon the small finger of his left hand and the finger adjoining the small finger and on the back side of his head and then one unknown person also gave a kappa blow with its reverse side, which struck upon his back and thereafter, he raised hue and cry and thereafter, the aforesaid Raghuveer Singh and Sukhwinder Singh (petitioner) and other unknown persons came there and wrapped the rope around his neck and dragged him in the shop and thereafter, the neighbours came there and freed him from the aforesaid persons. They also damaged the costly machines for repairing mobiles and also stole some mobiles and while going they also threatened to kill him by saying that if he complaints to the police, then they will see him.

The learned counsel for the petitioner has submitted that in the present case the petitioner at the time of the accident was just 18 years and 4 months and he has been falsely implicated in the present case. He further submitted that there is a delay of 48 hours in lodging of the FIR. He further submitted that even as per the story of the prosecution the greivous injury, if any, is attributable to the co-accused and not to the petitioner and so far as the role of the petitioner as per the FIR is concerned, there is nothing on record to

show that the petitioner has committed any offence. He further submitted that so far as the allegation with regard to the wrapping of the neck by rope is concerned, the same is also not correct because there is nothing on the record to show the same. He further submitted that the other co-accused namely Raghuveer Singh has been granted interim anticipatory bail by this Court and he was a juvenile. He further submitted that the petitioner is not involved in any other case and, therefore, he may be considered for the grant of anticipatory bail.

On the other hand, Mr. Arun Kumar Kaundal, learned Deputy Advocate General, Punjab while referring to affidavit filed by the State has submitted that it is a case where the petitioner alongwith the other co-accused namely Raghuveer Singh alongwith 6-7 persons had collectively attacked the complainant and caused serious and grievous injuries to him and there are total 9 injuries on the body of the injured. He submitted that direct allegations have been attributable to the petitioner in the FIR and his name has been mentioned to have caused injuries to the complainant/injured. He while referring to para No.4 (iii) has submitted that as per the MLR dated 18.07.2021 of Civil Hospital, Fazilka the complainant Simran Pal Singh had 9 injuries on his body. The injuries No. 5 and 7 were declared as grievous by the doctor and, therefore, Section 326 IPC was added in the FIR. The injury No.5 caused with kappa is attributable to the accused Raghuveer Singh and injury No.7 caused with kirpan is attributable to the petitioner. The learned State counsel has further submitted that although the lodging of the FIR was after about 2 days but it cannot be said that the entire case was concocted by the police in view of the fact that the MLR is of the same date as that of the incident i.e. 18.07.2021 and therefore, the delay in lodging of the FIR is

inconsequential. He has also referred to a copy of the MLR which has been supplied to the Court during the course of the hearing and while rebutting the argument raised by the learned counsel for the petitioner that there was no injury on the neck by the rope, the learned State counsel submitted that vide serial No.8 of the MLR report it is stated that there is a bruise of size of 8 cm x 1.5 cm present on front of neck extended to back of neck and, therefore, the argument raised by the learned counsel for the petitioner is not sustainable. He further stated that it is a case where a number of boys collectively attacked the injured and in view of the seriousness and magnitude of the offence, the petitioner is not entitled for the grant of anticipatory bail. He further submitted that the petitioner is absconding since the registration of the FIR and the names of the other persons who were also alongwith him are yet to be ascertained from him and it is a case where for the purpose of elicitation of truth and for recovery of weapons etc. custodial investigation of the petitioner is required. The learned State counsel has also submitted that the petitioner cannot maintain a parity with the other co-accused Raghuveer because he has been granted interim protection in view of the fact that he was a juvenile.

Mr. Amandeep Singh Saini, Advocate has also caused apperance on behalf of the complainant and has also filed his power of attorney in the Court today, which is taken on record.

While assisting the learned State counsel it was submitted by the learned counsel for the complainant that the complainant had suffered serious injuries due to the attack made by a group of boys on him and the names of the other boys are yet to be determined and, therefore, has opposed the grant of anticipatory bail.

I have heard the learned counsel for the parties.

As per the allegations the petitioner alongwith the other co-accused namely Raghuveer Singh and 6-7 boys had collectively attacked the complainant which ultimately resulted into 9 injuries on him and on the basis of the nature of the injuries Section 326 IPC was added. The petitioner is stated to be absconding. Furthermore, the petitioner cannot take the benefit of parity with the other co-accused Raghuveer Singh in view of the fact that the other co-accused was juvenile at the time of commission of the offence. The gravity of offence and specific role attributable to the petitioner would disentitle him from the grant of anticipatory bail.

Therefore, considering the totality of circumstances of the present case, the seriousness and the magnitude of the offence, this Court does not deem it fit and proper to grant anticipatory bail to the petitioner.

Consequently, the present petition is hereby dismissed.

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

15.11.2021

rakesh

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No