

Sr.No.203

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

**CRM-M-37842 of 2020
Date of decision:06.01.2021**

Atul

... Petitioner(s)

versus

State of Punjab

... Respondent (s)

Coram: Hon'ble Mr. Justice Jasgurpreet Singh Puri

Present: Mr. Sandeep Arora, Advocate
for the petitioner.

Mr.Kiran Kumar for Complainant.

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

Through Video Conference

Jasgurpreet Singh Puri, J.(Oral)

Present petition is a second petition which has been filed under Section 438 Cr.P.C for grant of anticipatory bail to the petitioner in FIR No.274 dated 19.09.2020 registered under Sections 307, 452, 323, 324, 148, 149 IPC and Section 326 IPC added later on at Police Station Division No.8, Jalandhar.

The aforesaid FIR was lodged on the basis of statement of one Baljinder Pal Singh son of Inderjit Singh resident of House No.166, Opposite Janj Ghar, Globe Colony, Jalandhar by stating that he is running a

business of manufacturing sleepers by installing repair machines in his house. On 17.09.2020 at about 7:00 PM the complainant and his brothers who are living in joint family in one house and the children of his younger brother were playing in the park outside the house, a quarrel took place between the children and when his brother Tajinderpal Singh came to know about the same he brought the children back to the house after making them understand. Thereafter, after some time, 6-7 motorcycles/activa on which 10-12 unknown young men who were holding swords and datars while raising raula came inside their house on account of door being open. These unknown boys were stopped by them who while raising lalkaras gave kirpan and datar blows to the complainant and the other family members with an intention to kill them. Thereafter, when alarm was raised then they ran away from the spot alongwith the weapons and while running away their phones also fell down and the family members of the complainant with the help of the neighbour got admitted at Civil Hospital, Jalandhar where doctors done dressing on the wounds and after stitching the wounds admitted them for treatment and MLRs were also issued.

On the next date i.e.18.09.2020 after the X-rays were conducted, they got themselves admitted in HP Orthocare Hospital, Jalandhar for better treatment. It is further stated in the FIR that thereafter, the complainant came to know one Money Sidhu and Atul (petitioner) residents of Aman Nagar, Jalandhar and the son of owner of Aryan Dhaba Pathankot Chowk, Jalandhar, namely, Pendu were associated with the persons who inflicted the injuries and regarding rest of their associates they were also enquiring and that they can recognize them in case they come in front of them.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case in as much as the allegations were vague in nature and nothing is clear from the FIR as to who had inflicted injury upon the complainant and his family members and has therefore, prayed for grant of anticipatory bail.

Notice in the present petition was issued by this Court on 16.11.2020 wherein the State was asked to file comprehensive affidavit. An Affidavit has been filed by Assistant Commissioner of Police(North), Jalandhar dated 19.11.2020 in which it has been stated that there were three persons injured in the present case namely, Baljinder Singh, Balraj Singh and Sukhwinder Singh. So far as the MLR of injured Baljinder Singh is concerned he sustained three injuries, one on the little finger of left hand, second on the ring finger of left land and third on the back of left elbow and below the elbow joint. All the injuries were kept for observation for X-ray and injury No.1 was declared as grievous in nature vide MLR and X-ray report; Annexure R-1 and R-2 respectively. So far as the second injured Balraj Singh is concerned there were total four injuries reported by the doctor on the person of the aforesaid Balraj Singh. Injury No.1 was on left forearm and advice X-ray, injury No.2 was on left arm, injury no.3 was on left shoulder and advice for X-ray and injury No.4 was on back of left forearm. The aforesaid injuries No.1 and 2 have been caused with sharp edged weapon whereas injury No.2 and 3 have been caused with blunt weapon. So far as injury No.1 is concerned, the same was declared as grievous in nature and copies of MLRs and X-ray reports were annexed as Annexures R-3 and R-4 respectively. So far as the third injured namely, Sukhwinder Singh is concerned, he was inflicted two injuries. First injury

was on the back of the left arm and the second injury was on the right side face and the copy of the MLR is attached as Annexure R-5.

It is further stated in the affidavit that during the course of investigation, five motorcycles and one activa scooter were taken in police possession which was left by the assailants on the spot. Out of five motorcycles one motorcycle bearing No.PB08-BF-7056 in the name of Varun son of Vipin Kumar who is paternal uncle of the petitioner. Apart from the above, during the course of investigation, video recording of the entire incident and photographs were also taken into police possession through pen drive. Furthermore, three more FIRs have also been lodged against the other co-accused namely, Navjot Singh @ Money Sidhu who has been named in the FIR.

In para No.9 of the aforesaid affidavit, it has also been stated that the name and address of other unidentified assailants are yet to be found and the petitioner was principal accused in the aforesaid occurrence who can only tell about the other unidentified assailants and therefore, the custodial investigation of the petitioner is required. Furthermore, the weapons used in the said occurrence is yet to be recovered from the petitioner.

Learned State counsel has submitted while referring to the affidavit filed by the Assistant Commissioner of Police(North), Jalandhar submitted that it is a case where investigation is still going on and multiple injuries have been caused to three persons as detailed above and it is a case where the petitioner has been named in the FIR and other unidentified assailants are yet to be ascertained, therefore, custodial investigation of the petitioner is very essential.

I have heard the learned counsel for the parties and perused the

available record.

Perusal of FIR would show that some 10-12 unknown persons came on motorcycles/activa and had inflicted kirpan and datar blows on three persons and while running away they had left their mobile phones on the spot. In the FIR itself in the later part the name of the petitioner as well as one of the other co-accused namely, Money Sidhu is also mentioned. Perusal of the FIR would show that multiple injuries have been caused to the three persons and some of them have also been declared as grievous. The stand taken by the State is that in the background of the present case the custodial investigation is very essential because the other assailants are yet to be identified and the same can be done by way of custodial investigation of the petitioner would carry some weight. Apart from the same, weapons are yet to be recovered from the petitioner. It is a settled law that while considering the petitioner for anticipatory bail a balance has to be struck between the liberty of an individual and other parameters i.e. the nature of crime, possibility of influencing the witnesses and tampering of evidence, recoveries, if any is to be made and other important factors in the facts and circumstances of each and every case.

In the present case, there were allegedly 10-12 assailants and the police is yet to ascertain and identify the other assailants as well. Furthermore, recovery of weapons is yet to be made.

Therefore, considering the totality of circumstances of the present case, this Court deems it fit and appropriate not to grant anticipatory bail to the petitioner as custodial investigation would certainly be required in the facts and circumstances of the present case. Consequently, the present petition is dismissed. However, nothing stated hereinabove, shall be

construed to be an expression on the merits of the case.

6th January, 2021
Shivani Kaushik

[JASGURPREET SINGH PURI]
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
Whether Reportable	Yes/No