

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-42937-2021 (O&M)
Date of decision: 14.10.2021

Gurtej Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Kanwaljit Singh, Sr. Advocate with
Mr. Ajaivir Singh, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. G.S. Nahel, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of anticipatory bail in FIR No.68 dated 05.06.2021 under Sections 324, 323, 506 IPC (Sections 326, 325, 148, 149, 447, 120-B IPC were added later on), registered at Police Station Sadar Sangrur, District Sangrur.

Learned senior counsel for the petitioner submits that the petitioner has been falsely implicated in this case being husband of the present Sarpanch. It is further submitted that the complainant was Sarpanch in

the previous tenure and in the present tenure, he lost the election as Panch and on that account, he made a false complaint against the petitioner. On an earlier occasion, an FIR No.22 of 2017 was registered under Section 431 IPC and Section 3 of Public Property (Prevention of Damage) Act, 1985 at the instance of complainant, with the allegations that the petitioner and others have uprooted the interlock bricks on the pavement of the village road, though the petitioner was not involved even in that case.

It is further submitted that present FIR has been registered at the instance of complainant Gurinder Singh, in which it is stated that he is an agriculturist and on 04.06.2021, he was working in his fields, when five persons came in a white coloured Skoda car. One person kept sitting in the car and remaining four persons came out. One tall person was holding an iron gandasi, fixed on iron rod, in his right hand. Two middle height fair complexion persons were holding *bala* in their right hands and one bald person was holding a baseball bat in his hand. One more person was having muffled face. The tall man raised a lalkara to teach a lesson to the complainant for raising an issue with petitioner Gurtej Singh. Thereafter, tall man gave two gandasi blow, which hit on his right leg under the knee. One middle height person gave three blows of *bala* on his right ankle, left ankle and left arm and the bald person gave three blows with baseball bat, which hit on the right side of his back, shoulder and above his right eye. Thereafter, they made a phone call to the petitioner that as per his wishes, Gurinder Singh has been beaten. It is further stated in the FIR that in the month of June, 2019,

Gurtej Singh has implicated the complainant and his brother in a false case under the influence of his wife Pardeep Kaur, Sarpanch and even subsequently, there were threats to the complainant.

Learned senior counsel for the petitioner has argued that the police, during the investigation, arrested Davinder Singh, Birbal Singh @ Balla, Babbu Singh, Kesar Singh and Baljinder Singh and recorded a joint confession statement that they all, in conspiracy with each other and petitioner, caused injuries to Gurinder Singh in his Skoda car bearing registration No.DL-6CJ-8080 and except for this disclosure statement, there is no other evidence against the petitioner and Skoda car belongs to co-accused Harpreet Singh, who is yet to be arrested. It is also argued that aforesaid persons were arrested on the basis of supplementary statement made by the complainant on 12.07.2021 that at his own level, he inquired and found that all the aforesaid persons came in Skoda car driven by Davinder Singh and caused injuries to him. In the supplementary statement, it was also stated that the petitioner had given Rs.70,000/- to the aforesaid persons for beating the complainant. It is next argued that there is no evidence to connect the petitioner with other accused, who have allegedly caused injuries to complainant Gurinder Singh and by alleging the previous party faction in the village, the complainant has found a platform to involve the petitioner in the present case, because he had some dispute with other persons and there is no evidence against the petitioner that he had paid any amount to the aforesaid persons.

It is further argued that as per MLR, injuries No.1 & 5 are reported to be incised wound over right lower leg, whereas injury No.2 is pain and swelling, injuries No.3 & 4 are contusions over right scapular and right side of back, injuries No.6 & 7 are again pain and swelling and injury No.8 is abrasion over right eyebrow. It is also submitted that later on, as per CT chest, fracture of right 8th and 9th rib are seen, however, as per ocular version, no injury was given on the ribs of the complainant.

It is next argued that in the FIR, it is wrongly recorded that on an earlier occasion, present Sarpanch i.e. wife of the petitioner, got an FIR registered against the complainant, whereas no such FIR was registered. It is also submitted that Sarpanch, being public person, has to receive many calls of the villagers in performance of his/her duties and the petitioner, being husband of the present Sarpanch, is also receiving number of calls every day from inhabitants of the village, therefore, false implication of the petitioner at the instance of the complainant, who is an ex-Sarpanch and in the present plan, lost the election of Panch, cannot be ruled out, as the motive can be double-edged and the complainant has found an occasion to implicate the petitioner on account of some dispute with other persons in the village.

It is also argued that the Skoda car neither belongs to the petitioner nor it is case of the prosecution that the petitioner was present at the spot and only evidence is either disclosure statement of co-accused or some call details. It is further submitted that very fact that in the FIR, the complainant has not given the names of five persons, who attacked him,

however, after more than one month, he recorded his supplementary statement giving names of the persons along with their parentage and their complete address, itself shows that the complainant had some dispute with the aforesaid persons and he has attributed false motive to the petitioner.

In reply, learned State counsel, assisted by learned counsel for the complainant, has opposed the prayer for bail on the ground that anticipatory bail petition filed by one co-accused Jagsir Singh @ Jagjeet Singh @ Jaggi, who was present at the spot in giving beatings to the complainant, has already dismissed, therefore, custodial interrogation of the petitioner is required to ascertain the call details from his mobile phone. It is submitted that on receiving the report of CT Scan, Section 326 IPC was invoked.

Learned counsel for the complainant has additionally argued that there are Whatsapp chat between the petitioner and co-accused, which indicates that the petitioner hired other accused for causing injuries to the victim/complainant, however, he could not dispute that wife of the petitioner, namely Pardeep Kaur/present Sarpanch, has not registered any FIR against the complainant (though stated so in the present FIR). It is also not disputed that initially, as per the FIR that some unknown persons had caused injuries to the complainant and after more than one month, names of other persons were disclosed. It is further submitted that anticipatory bail petition filed by co-accused Jagsir Singh @ Jagjeet Singh @ Jaggi has been dismissed by this Court vide order dated 28.09.2021 passed in CRM-M-39209-2021, whereas

anticipatory bail petition filed by another co-accused Birbal Singh @ Balla has been dismissed as withdrawn vide order dated 23.09.2021 passed in CRM-M-38824-2021.

In reply, learned senior counsel for the petitioner has argued that defence of the petitioner is on separate footings, as admittedly he was neither present at the spot nor there is any allegation that he caused any injury to the victim. It is further argued that case of the petitioner is distinguishable, as the allegation against him is only of conspiracy. Learned senior counsel has further replied that it will be a matter of investigation whether the motive attributed in the FIR is proved or false implication of the petitioner is proved, as he is ready to join the investigation.

After hearing learned counsel for the parties, I find merit in the present petition, for the following reasons: -

- (a) Though anticipatory bail petition of co-accused Jagsir Singh @ Jagjeet Singh @ Jaggi, who was named in the supplementary statement recorded by the complainant as the assailant, who actually caused injuries to him, was dismissed by this Court, observing that he caused injuries with baseball bat, however, it is case of the prosecution that the petitioner was neither present at the spot, when the injuries were caused nor for a period of more than one month, when the supplementary statement was recorded by the complainant, there was any allegation about identity of other accused.

- (b) As per the prosecution, some unknown persons initially had caused injuries to the complainant, whose names were disclosed in the supplementary statement, by stating that he has verified at his own level, who has caused him injuries. The motive attributed to the petitioner, that he hired the aforesaid persons to give beatings to the complainant, can be false just to implicate him, as in view of defence set up by the petitioner that the complainant was Sarpanch in the previous plan and in the present plan, his wife Pardeep Kaur became Sarpanch and the complainant even lost the election of Panch and on that account, he was having a grudge against him and on account of causing injuries by unknown persons, he has named the petitioner. Therefore, it will be decided during trial whether motive is there on part of petitioner to give beating to victim or whether it was the motive of victim himself to falsely implicate the petitioner due to rivalry and losing panchayat election in village.
- (c) The fact stated in the FIR that the petitioner or his wife/present Sarpanch Pardeep Kaur has registered a false case against the complainant and his brother, are incorrect, as admitted by learned State counsel and learned counsel for the complainant.
- (d) It is stated in the FIR that five persons came in a Skoda car bearing registration No.DL-6CJ-8080, owned by the petitioner, whereas in the investigation, it is found to be owned by one

Harpreet Singh, who is yet to be arrested and therefore, this fact is to be verified after his arrest, as to how his car was used by other persons and till such time, the petitioner, against whom primary allegations are under Section 120-B IPC, needs to be protected.

In view of the above, this petition is allowed and the petitioner is granted the concession of anticipatory bail subject to the conditions envisaged under Section 438 (2) Cr.P.C.

It will be open for the Investigating Officer to call the petitioner in the police station for the purpose of joining him in the investigation, on giving him an advance notice in writing.

It is made clear that if the petitioner fails to cooperate in the investigation, it will be open for the complainant/Investigating Officer to revive this petition.

[ARVIND SINGH SANGWAN]
JUDGE

14.10.2021
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No