

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

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CRM-M-43478-2021

Date of Decision : November 09, 2021

SANDEEP @ MALIA

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Raman Chawla, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

Mr. Rajesh Bansal, Advocate
for the complainant.

Through Video Conferencing

JASGURPREET SINGH PURI. J. (Oral)

Status report by way of affidavit of Kushal Singh, HPS, Additional Superintendent of Police, Hisar has been filed which is taken on record.

The present petition is filed under Section 438 Cr.P.C. for grant of pre-arrest bail to the petitioner in case FIR No.202 dated 24.4.2021 under Sections 147, 148, 149, 307, 323, 325, 341, 379-B, 427, 506 of IPC, registered at Police Station Azad Nagar, District Hisar.

As per the FIR when the complainant was going towards Bhoriya on his motor cycle he saw that some boys stopped the car of his uncle, namely, Tejbir and were giving injury to him. One Sumer, son of Jagdish, resident of Panihar Chak was having a farsa like weapon in his

hand and Rajesh son of Baga, resident of Panihar Chak was having iron rod in his hand and his companion was also having lathi-dandas and they were giving injuries to Tejbir and damaging the vehicle and after seeing him they said that his nephew is coming, kill him and during this Sumer who was having the farsa weapon in his hand attacked Tejbir directly on his head with an intention of killing him and during which he struck his right hand in front of his head and thereafter Rakesh, who was having an iron rod in his hand gave a blow on Tejbir's head with an intention to kill him on which Tejbir struck his left hand in front of his head due to which suffered serious injuries on both his hands and when the complainant reached there, they had also taken money from the pocket of Tejbir and also threatened to kill him. The reason for the enmity was that about 15 years ago, the family of the complainant had a dispute with their family regarding a street in which both the parties suffered minor injuries.

After that in the year 2014, Sumer, Sandeep Kharia and their companions together had given injuries to his uncle's son, namely, Satish and in that case also they were sentenced for two years and the matter is pending before the learned Sessions Court. Due to this reason they had attacked Tejbir by forcibly stopping his car in a planned manner and had caused serious injuries to him.

The learned counsel for the petitioner has submitted that the petitioner was not present on the spot and has been falsely implicated in the present case. He submitted that so far as the petitioner is concerned, he had no role to play in the entire incident and, therefore, he may be considered for the grant of anticipatory bail.

On the other hand, Mr. Panwar, learned DAG, Haryana has submitted that a detailed status report has been filed by way of an affidavit and while referring to the aforesaid affidavit he submitted that 8/9 boys on three motor cycle came and had caused injuries with a lathi, danda, iron rod and farsa type of weapon after encircling the vehicle of the injured. Sumer, son of Jagdish was having farsa and inflicted injuries upon Jeetvir, Sandeep @ Malia (petitioner) and 3/4 more boys alongwith him also inflicted injuries upon him and damaged his vehicle and thereafter Sumer and Rakesh forcible pulled him from the vehicle and inflicted injuries upon him. Thereafter, they had also taken Rs.37,000/- from the pocket of the injured and threatened to kill his family as well as Satish and Sombir.

Learned DAG, Haryana while referring to para No.3 of the affidavit submitted that the petitioner alongwith co-accused Sumer also conducted rekky of the complainant and the attack was made in a pre planned manner. He further referred to para No.3 of the affidavit to state that the petitioner was involved in three more cases out of which one pertained to Section 307 IPC but has been acquitted and in another case under Sections 147, 149, 323, 341, 452 IPC also he has been acquitted. However, the third case which is under Sections 157, 149, 323, 341, 506 IPC, he is undertrial. Learned DAG, Haryana further relying upon para No.5 of the affidavit has submitted that during the course of investigation, spot inspection was conducted and the damaged vehicle was recovered from there and taken into police possession. The co-accused Sumer, Rakesh and Pardeep were arrested on 7.5.2021 and their

disclosure statements have been recorded. In his statement, Sumer stated that he had old enmity with the complainant and on 21.4.2021 he and the petitioner, namely, Sandeep @ Malia made rekky of Jeetvir and planned to kill him with other co-accused and thereafter injuries were caused alongwith farsa and other weapons and the farsa, motor cycle and a cash of Rs.1,000/- have been recovered from co-accused Sumer and an iron pipe and cash of Rs.1,000/- have been recovered from co-accused Rakesh and motor cycle, wooden danda and a cash of Rs.1,000/- have been recovered from co-accused Pardeep. Co-accused Kuldeep was arrested on 25.5.2021 and a motor cycle and a wooden danda were recovered from him. Co-accused Subhash was also arrested on 2.8.2021 and a wooden danda and a cash of Rs.1,000/- have been recovered from him. The present case is under investigation for the arrest of the present petitioner Sandeep @ Malia, Sandeep Dhaka and Sombir son of Baljeet. He further submitted that the custodial investigation of the petitioner is very much required for the recovery of weapon of offence and cash which he took to his share.

Learned DAG, Haryana has further submitted that as per the MLR, there were five injuries on the person of complainant-Jeetvir and injuries No. 1 to 4 were grievous in nature. After the discharge of complainant-Jeetvir from the hospital, he was again admitted in General Hospital, Fatehabad on 2.5.2021 and died in the hospital on 4.5.2021 while under treatment. He further submitted while referring to para No.10 of the affidavit that the custodial investigation of the petitioner is required for the recovery of weapon and cash and in case the petitioner is

released on anticipatory bail he may abscond from trial and may hamper the investigation and there is a serious apprehension with regard to the same. He has, therefore, opposed the grant of anticipatory bail to the petitioner.

I have heard the learned counsels for the parties.

In the present case, the allegations pertained to a gang attack by a number of persons on the injured which caused five injuries which were grievous in nature. Some of the other co-accused have been arrested but it has been more than six months that the petitioner is absconding and has not been arrested as yet. The facts and circumstances of the present case in which there are direct allegations against the petitioner that he alongwith other co-accused had done a rekky on the injured and the attack was made in a pre planned manner and not spontaneous would certainly be a relevant factor to consider the grant of anticipatory bail to the petitioner. The nature of allegations, injuries suffered by the injured and the gravity of the offence would disentitle the petitioner for the grant of anticipatory bail.

During arguments, the learned counsel for the petitioner has pointed out that the death of injured-Jeetvir occurred not due to the injuries but due to Corona would also not be of much relevance as it is already on record that as per the MLR, five injuries have been caused on the person of Jeetvir. Further-more, the petitioner was also involved in three other cases although he has been acquitted in two cases but since the injuries have been caused by weapons and recovery of weapons and cash from other co-accused has been made, the argument raised by the

learned DAG, Haryana that the custodial investigation of the petitioner is required does carry some weight.

Therefore, without commenting anything on the merits of the case, this Court is of the view that the petitioner is not entitled for the grant of anticipatory bail.

Consequently, the present petition is, hereby, dismissed.

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

November 09, 2021
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(JASGURPREET SINGH PURI)
JUDGE

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