

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

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CRM-M-41624-2020 (O&M)

Date of decision : 18.01.2021

Bhim Sen

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

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

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.

Mr. Gursimran Singh Madaan,
Advocate for the complainant.

ALKA SARIN, J. (ORAL)

Taken up through video conferencing.

This is the first petition under Section 438 of the Code of Criminal Procedure, 1973, for grant of anticipatory bail to the petitioner in FIR No.286 dated 12.10.2020 under Sections 323, 324, 354, 148, 149 of the Indian Penal Code, 1860 ('IPC' for short) and Sections 325 and 326 IPC (added later on) registered at Police Station Shahkot, District Jalandhar.

The brief facts as set out in the FIR are that the same was registered on of the statement of complainant-Himmat Wadera Chinu s/o Subhash Chandar alleging therein that he is running a sweet shop. On 10.10.2020 he, along with his father Subhash Chander, came back to his house after closing the shop and his father went to get a shave and he sat out on a scooter in the Bazaar. There Bhim Sen s/o Prem Parkash

(petitioner-herein) attacked the complainant with a Dattar on his head due to which he fell down. Then sons of Bhim Sen, namely, Ram Wadera and Prince, also came along with 3 other the boys who had muffled their faces. Prince and Ram started attacking the complainant with Dattar. Ram Wadera attacked on his first finger of the left hand as a result of which his finger was separated from his hand. The said Ram Wadera is also alleged to have attacked with the reverse side of Dattar on the wrist of his left hand. Prince attacked with Dattar on his bicep of left arm. Anu Wadera w/o Bhim Sain also came to the spot who attacked with a Danda on the mouth of the complainant due to which his teeth broke. She also attacked with the Danda on his foot. After hearing the hue and cry people gathered at the spot and the accused ran away. The complainant was unconscious and was brought to City Hospital, Shahkot by his family members where the doctors gave first-aid and referred him to Civil Hospital, Jalandhar. But his family took him to Guardian Hospital, Jalandhar.

Learned counsel for the petitioner would contend that the injury attributed to the petitioner is Injury No.2 which is a Dattar blow on the head. Learned counsel would further contend that as per the medical opinion the injury has been declared as simple in nature.

Learned counsel appearing on behalf of the complainant has stated that the complainant was mercilessly beaten up and injury has wrongly been declared as simple in nature inasmuch as it was the Dattar blow which was given on the head of the complainant.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab has filed a fresh status report by way of affidavit of Dr. Jangpreet Singh Multani (M.ch), Guardian Hospital, Jalandhar wherein he has shifted the responsibility for assessing the injuries on the Civil Hospital where the complainant was first examined. A short affidavit has also been filed by Dr. Rajinder Gill wherein he has stated that for Injury No.2 the complainant had been referred for surgical special opinion and X-ray and for further management and further that he had declared the injury as simple in nature on basis of X-ray report, since no fracture of the skull was seen. A short affidavit of Manjeet Kaur, PPS, Superintendent of Police, Special Branch, District Jalandhar (Rural) has also been filed wherein the letters requesting for documents for forming a medical opinion have been made by the Civil Hospital. A perusal of the same reveals that vide letter dated 12.11.2020 Dr. Rajinder Gill, EMO, CHC, Shahkot, Jalandhar had specifically stated that for assessing Injury No.2, X-Ray report and surgical special report would be required. However, it has been stated that the same has not been supplied by the father of the complainant.

I have heard learned counsel for the parties.

The injury in the present case, which has been attributed to the present petitioner, is a Datter blow on the head of the complainant. Though on the basis of the documents, which have been supplied by the father i.e X-ray report, the Civil Hospital has assessed Injury No.2 to be simple in nature, however, the intention of the petitioner in the present case would also be relevant inasmuch as the injury has been caused on the head of the complainant with a Datter. Merely the fact that the injury

has been declared simple in nature would not entitle the petitioner for grant of anticipatory bail. The complainant in the present case was mercilessly beaten up by the petitioner, his two sons and his wife. The finger of the left hand was separated from the hand. The co-accused also caused injury on the left bicep of the complainant with Dattar. The wife of the petitioner gave Danda blows on the mouth of the complainant due to which the teeth of the complainant were dislocated.

Keeping in mind the merciless beating that was given to the complainant, I do not deem this to be a fit case for grant of anticipatory bail to the petitioner. The same is hence dismissed.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

January 18, 2021
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(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
 Whether reportable: Yes/No