

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-17588-2022

1. Shubham Bhatti ... Petitioner

Versus

State of Punjab ... Respondents

CRM-M-321-2022

2. Phoola Singh @ Phoola Bhatti ... Petitioner

Versus

State of Punjab ... Respondents

Date of Decision:-06.09.2022

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. K.B. Raheja, Advocate for the petitioner.

Mr. Luvinder Sofat, DAG, Haryana.

GURVINDER SINGH GILL, J.(Oral)

1. This order shall dispose off the above mentioned two petitions filed on behalf of Shubham Bhatti and Pholla Singh @ Phoola Bhatti, for grant of anticipatory bail in a case FIR No.88 dated 08.08.2020 under Sections 307, 324, 323, 341, 506, 148, 149, 188, 269 IPC, registered against them at Police Station City Zira, District Ferozepur.
2. The FIR was lodged at the instance of Harpreet Singh wherein it is alleged that on 07.08.2020 when he along with his friend Saurav Sharma was proceeding towards his house, they were waylaid by Markas Masih @ Massa, Sewa Singh, Phoola Singh, Shubham Bhatti and 3-4 unknown persons who were standing on the road. It is alleged that Markas Masih @ Massa raised a '*lalkara*' exhorting his companions to teach the complainant a lesson for quarreling with them. Markas Masih @ Massa is alleged to have

given two blows with '*kappa*' to the complainant hitting him on the left side of his head and gave another blow which hit right side of head. Thereafter, Sewa Singh gave blow with '*kappa*' on the back side of complainant's head. Shubham Bhatti (petitioner) is stated to have given blow with 'baseball' bat hitting complainant's finger of left hand. Phoola Singh son of Thana Singh is stated to have inflicted a blow to the complainant with a 'baseball bat' that hit on his left leg. He gave another blow on the left foot of the complainant. The complainant fell down, having received the aforesaid injuries. When complainant's companion Saurav Sharma tried to rescue him, he was also inflicted injuries by the accused.

3. Learned counsel for the petitioner-Phoola Singh has submitted that the identity of the petitioner Phoola Singh is seriously disputed inasmuch as he has falsely been implicated in the present case and in fact, his real name is Sonu Bhatti, as would be evident from his Matriculation Certificate. The learned counsel has further submitted that in any case, even if, the allegations as levelled in the FIR, are taken to be correct, none of the petitioners was armed with any sharp edged weapon and both of them are stated to be carrying 'baseball bat'. It has also been submitted that since none of the injury allegedly sustained by the complainant has been opined to be dangerous to life, therefore, Section 307 IPC would not be attracted at all.
4. Opposing the petition, learned State counsel has submitted that since it is a case where more than five persons have attacked the complainant and another, Sections 148 and 149 IPC would be attracted and since the petitioners were also duly armed with weapons, the mere fact that the injuries on head are attributed to the co-accused will not be material inasmuch as each of the member of the unlawful assembly would be

vicariously liable having shared a common object of inflicting injuries to the complainant and another injured. Learned State counsel has also submitted that there is no dispute as regards the identity of Phoola Singh inasmuch as he is also known by the name Sonu Bhatti and the said fact would be fully substantiated from the fact that the parentage of the said accused Phoola Singh is mentioned as son of Thana Singh, which is also not disputed by learned counsel for the petitioner and the same is also reflected so in his Matriculation Certificate which has been annexed with the petition as Annexure P-2. Learned State counsel further submitted that the manner in which the injuries have been caused to the injured which include three incised wounds on the head clearly reflect the intention of the petitioners and other members of the unlawful assembly and as such, they do not deserve the concession of anticipatory bail.

5. This Court has considered the rival submissions.
6. Having regard to the nature and number of injuries which include three incised wounds on the head, it is apparent that the said injuries have been caused with the intention to make an attempt to murder the injured. The mere fact that there is no opinion of the doctor that the injuries were 'dangerous to life' will not matter in case the other facts and circumstances duly suggest that the injuries were caused by an attempt to commit murder. The identity of the petitioner-Phoola Singh cannot be doubted in view of the fact that there is no doubt as regard his parentage. The petitioner, even though, attributed simple injuries but he would be held liable vicariously, having shared a common object with the co-accused. In these circumstances, this Court does not find it a special case for grant of anticipatory bail to either of the accused.

7. Both the petitions are hereby dismissed.
8. It is however, clarified that none of the observation made above shall be taken to be an expression on the merits of the main case and the trial Court shall proceed with the trial or any other proceedings without being influenced by anything about what is stated above.

06.09.2022
anil

(Gurvinder Singh Gill)
Judge

Whether reasoned/speaking
Whether reportable

Yes / No
Yes / No