

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-1488-2022
Date of Decision: 17.01.2022

(I)

Jagmohan @ Kala Batwa

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CRM-M-1533-2022

(II)

Sunny

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Vansh Malhotra, Advocate, for the petitioner(s).

Mr. Naveen Singh Panwar, DAG, Haryana.

Through Video Conferencing

JASGURPREET SINGH PURI, J.(Oral)

The present two bail petitions are taken up together for final disposal since both the petitions arise out from the same FIR.

Both the petitions have been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioners in FIR No.449 dated 15.08.2021, under Sections 148/149/323 /324/506 of IPC (Sections 325/326 IPC were added later on), registered at

Police Station City Kaithal, District Kaithal.

As per the FIR which has been lodged on the basis of complaint made by one Dalbir Singh son of Mewa Singh that he had purchased a plot of 200 Square Yards in Shiv Colony, Gali No.6, Patti Afghan, Kaithal and had constructed four boundary walls and a room in the said plot and about three months ago sold the abovesaid plot to Satbir son of Amar Singh but the sale deed was not executed but full payment of sale consideration was made and possession was also handed over to the aforesaid Satbir. On 14.08.2021 Satbir gave a message to him that some persons of locality of Patti Afghan are restraining him to construct the house on the said plot, upon which complainant alongwith his relative namely Parveen and his friend Vikas reached at the spot at about 6-7 P.M. where Krishan, Aman, Kala Batwa (Petitioner in CRM-M-1488-2022), Sunny Balmiki (Petitioner in CRM-M-1533-2022) and Vikas came at the spot in a vehicle bearing registration No. HR-26BT-0650 and 5-6 boys also came on motorcycle by following them. The aforesaid Krishan told the complainant that the plot belongs to him and he will not allow to raise construction and even on telling to him by the complainant that the plot belongs to him and he can produce the registered sale deed and mutation of the said plot but Krishan gave a lalkara to teach a lesson for raising the construction on the plot and in the meantime, Krishan and his son Aman armed with gandasi and sword, Kala (Petitioner), Sunny (Petitioner) and Vikas brought gandasi and lathi in their hands. Krishan gave gandasi blow over the right thumb and gave two blows upon the fingers next to thumb. Aman gave sword blow on the wrist of left hand from reverse side. Kala gave gandasi and binda blow on his head. Sunny (Petitioner) armed with sword in his hand gave its reverse blow on his hip and Vikas

with baton (Danda) in his hand by digging his body gave blows with the same on many parts of his body. Parveen on seeing that the complainant was beaten up came to release him and both of them were given beatings by the accused persons together and other persons by laying them down, severe beatings were given and fists blows were also caused. In the meantime, one Hoshiar Singh son of Khem Chand and Balinder Singh also came on the spot and they tried to save them but they were also abused by giving slaps and fists blows. Thereafter, on seeing many persons from the locality coming there, all the accused persons by proclaiming in a loud voice went away from the spot alongwith their weapons by saying that today they have survived and from today onwards, if anybody raised any construction, then they will kill them. Thereafter, a private vehicle was arranged for taking the injured to the Government Hospital, Kaithal where the doctor after looking at the number of injuries on the complainant and the other injured namely Parveen, referred them to the PGI, Rohtak.

Learned counsel for the petitioners who is appearing in both the petitions submitted that the petitioners have been falsely implicated in the present case and so far as the injuries sustained by the complainant and the other injured person, they were simple in nature and, therefore, the petitioners may be considered for the grant of anticipatory bail. He further submitted that both the petitioners are ready and willing to join the investigation and since the nature of injuries were not serious in nature, they may be considered for the grant of anticipatory bail.

On the other hand, Mr. Naveen Singh Panwar, learned Deputy Advocate General, Haryana vehemently opposed the grant of anticipatory bail to the petitioners by submitting that about 10 persons have come on the

spot and there are direct allegations against the petitioners by name who formed a gang and gave severe beatings to the complainant and his relative Parveen who were ultimately admitted in PGI, Rohtak. He further submitted that after the injured were medically examined, offences under Sections 325 and 326 IPC were added by the investigating agency since the nature of injuries were grievous. He further submitted that it is a case where one person was given injuries by about 10-12 persons together and thereafter, when his relative namely Parveen came to rescue, he was also given beatings and injuries and, therefore, in the present case custodial interrogation of the petitioners were required not only for the purpose of recovery of weapons used in the offence but also for the purpose of elicitation of truth for further investigation. He further submitted that so far as the petitioner Jagmohan @ Kala Batwa, is concerned, he is involved in as many as six others cases and the details of the same are as follows:

1. *FIR No.217 of 2018, under Sections 148,149, 307, 341, 427 and 506 IPC, P.S. Civil Line, Kaithal;*
2. *FIR No.493 of 2019, under Sections 148,149, 324,323 and 307 IPC, P.S. Civil Line, Kaithal;*
3. *FIR No. 197 of 2019, under Section 25 of Arms Act, P.S. City, Kaithal;*
4. *FIR No.10 of 2019, under Sections 323, 307 and 506 IPC, P.S. Civil Line, Kaithal;*
5. *FIR No.216 of 2020, under Sections 148,149, 323, 452 and 506 IPC, P.S. City, Kaithal;*
6. *FIR No.316 of 2020, under Sections 148,149, 323 and 506 IPC, P.S. Civil Line, Kaithal*

So far as the other petitioner namely Sunny is concerned, he is involved in as many as two others and the and the details of the same are as follows:

1. *FIR No.228 dated 04.05.2021, under Sections 148,149, 323, 506, 285 IPC and Section 25 of Arms Act, P.S. City, Kaithal*
2. *FIR No.231 dated 06.05.2021, under Section 25 of Arms Act, P.S. City, Kaithal*

The learned State counsel further submitted that it was a case where a gang of accused persons allegedly attacked the complainant, his relative Parveen and another person namely Vikas. He further submitted that for the purpose of elicitation of truth as to what was the motive of these gang of persons who have attacked the complainant and two more persons is required to be ascertained by way of custodial interrogation because the property belongs to the complainant or at the most to Satbir to whom he has sold the property and then what was the motive for these gang of persons who have attacked and the truth regarding the same.

I have heard the learned counsel for the parties.

It is a case where allegedly a group of 10-12 people attacked the complainant and two more persons namely, Parveen and Vikas and caused grievous injuries to them and thereafter, in view of the same Sections 325 and 326 IPC were added. As per the FIR, the complainant had sold some property to one Satbir and when he was making construction on the plot, a group of 10-12 people had attacked them for not raising construction. Both the petitioners do not have clean antecedents and they involved in a number of other cases and, therefore, the submission made by the learned State counsel that it is extremely essential to ascertain the motive of these persons as to how they were connected with the property and as to whether they have taken some consideration for the same or not can be done only by way of custodial interrogation thus carry some weight. The argument raised

by the learned counsel for the petitioners that the injuries were simple in nature is factually incorrect as according to the learned counsel for the State the injuries were grievous in nature and that is why Section 326 IPC was added. In the present case the nature, gravity and magnitude of offence wherein direct allegations have been attributed to both the petitioners in the FIR itself would disentitle the petitioners for grant of concession of anticipatory bail particularly when both the petitioners do not have clean antecedents.

Therefore, this Court does not find any merit in both the petitions, the same are hereby dismissed.

17.01.2022

rakesh

**(JASGURPREET SINGH PURI)
JUDGE**

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No