

(208) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-3701-2022
Date of Decision: 04.08.2022

AJAY KUMAR

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. G.S. Bajwa, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 438 Cr.P.C. is for the grant of anticipatory to the petitioner in case FIR No.39 dated 23.03.2021 under Sections 307/323/324/34 of IPC registered at Police Station Bullowal, Hoshiarpur (Annexure P-1).

2. The present FIR came to be registered at the instance of Gulshan Kumar who stated that he had a brother Vinod Kumar whose marriage was solemnized 07 years with Manju and they had one child of the age of 05 years. Manju was having illicit relations with one Raman Kumar (the present petitioner) which caused annoyance to his brother Vinod Kumar. His brother had a quarrel with Raman Kumar regarding which a case had been filed against Vinod Kumar. On 22.03.2021, Raman Kumar and his companions inflicted injuries with sharp edged weapons on the head and body of his brother Vinod Kumar with an intention to kill him. Based on the said complaint, the present FIR came to be registered.

The petitioner had not been named in the FIR. During the course of investigation, the statement of Vinod Kumar, the injured witness was recorded, who stated that it was the petitioner Ajay Kumar and Raman Kumar co-accused, who had caused injuries on his head with a sharp edged weapon.

3. The petitioner was denied the concession of anticipatory bail after which he approached this Court.

On 01.02.2022, the following order was passed:-

“Learned counsel has argued that the complainant-Gulshan Kumar has made an accusation against co-accused-Raman Kumar, who had illicit relations with his sister -in-law and was involved in causing injuries to his brother-Vinod Kumar. Learned counsel submits that the petitioner has been falsely implicated, who is not named in the FIR and the CCTV footage which captured the alleged occurrence does not show his presence on the spot.

Notice of motion.

At this stage, Mr. Ramdeep Partap Singh, DAG, Punjab appears on behalf of respondent-State and contends that the statement of injured-Vinod Kumar was recorded under Section 161 Cr.P.C, who has specifically named the petitioner. According to him, the petitioner was armed with a sharp edged weapon and caused injuries upon the head of the injured. He prays for time to verify the CCTV footage.

On his request, adjourned to 09.02.2022.”

4. The matter was adjourned from time to time and the petitioner has been declared a proclaimed offender during the pendency of the present petition.

5. The learned counsel for the petitioner submits that the petitioner has not been named in the FIR and has been wrongly named by Vinod Kumar,

the injured eye-witness, as per whom, the petitioner along with Raman Kumar are the assailants, who had caused him sharp edged weapon injuries on his head. He submits that the CCTV footage of the alleged place of occurrence would show that he was not present at that spot. Today, in Court, he has raised yet another argument that in fact, he was present 130 KM away at Amritsar for which he has stated that he has provided some CCTV footage in this regard to the Investigating Agency. He thus, contends that the petitioner deserves the concession of anticipatory bail.

6. On the other hand, the learned State counsel while referring to the order dated 01.02.2022 submits that the CCTV footage of the place of occurrence is not clear enough to establish as to whether the petitioner was present at that spot or not. He also submits that at no point in time did the petitioner ever furnish any evidence of his presence at Amritsar as has been pleaded by him in the present petition. It is also contended that Vinod Kumar has specifically attributed an injury on the head to the petitioner with a sharp edged weapon. At this juncture, the statement of an injured witness cannot be brushed away lightly so as to grant the concession of anticipatory bail to the petitioner as the petitioner along with Raman Kumar are apparently the main accused.

7. I have heard the learned counsel for both the parties at length.

8. As per the version of Vinod Kumar, the injured witness the petitioner and Raman Kumar both inflicted injuries with sharp edged weapons on the head of Vinod Kumar. A perusal of the MLR of Vinod Kumar reveals, the following injuries:-

“Main Report
Government of Punjab
CH Hoshiarpur
CH Hoshiarpur
(Form-II)
Medical Legal Report
MLR No (Generated by software): M103001352100397
MLR No (Given by Doctor) : 46/V.S./CH/HSP/MARCH 2021

Sr. No.	Injuries	Marked	Injury Number
1.	SEMICIRCULAR INCISED WOUND AROUND 15CM IN CIRCUMFERENCE X 2 CM BREADTH X 2CM DEPTY, WITH FRESH BLEEDING ON FRONTO PARIETAL REGION, ENDING IN V SHAPE ON RIGHT SIDE (1CM EACH LIMB OF V)	YES	
2.	INCISED WOUND HORIZONTALLY LYING 8 X 2 X 2 CM, ON OCCIPATAL REGION WITH FRESH BLEEDING ADVISE SURGERY OPINION.	YES	
3.	INCISED WOUND 11X2X2CM ON OCCIPITAL REGION. IN MIDLINE, FRESH BLEEDING PRESENT, VERTICALLY ORIENTED ADVICE SURGERY OPINION	YES	
4.	ABRASION OF 2X1CM ON POSTERIOR ASPECT OF RIGHT UPPER FOREARM	YES	

	<i>WITH UNDERLYING SWELLING OF 8X3CM, TENDERNESS PRESENT. MOVEMENTS OF HAND RESTRICTED ADVISE ORTHO OPINION.</i>		
5.	<i>INCISED WOUND 6X1CM ON RIGHT TEMPORO PARIETAL REGION, FRESH BLEEDING PRESENT, OBLIQUELYING ADVISE SURGERY OPINION</i>	YES	
6.	<i>INCISED WOUND ON RIGHT SIDE OF FACE, ABOUT 8X2X3CM. PRESENT JUST LATERAL TO NOSE EXTENSIONS DOWNWARDS TO LATERAL ASPECT OF LIPS, CORRESPONDING WOUND ON INNER ASPECT OF UPPER LIP WITH LOOSENING OF UPPER LATERAL INCISOR OF RIGHT SIDE AND RIGHT UPPER CANINE FRESH BLEED PRESENT. ADVISE SURGICAL OPINION</i>	YES	
7.	<i>INCISED WOUND ON RIGHT SHOULDER 3X1CM WITH FRESH BLEED MOVEMENTS OF SHOULDER RESTRICTED ADVISE ORTHO OPINION</i>	YES	
8.	<i>LACERATED WOUND ON RIGHT LEFT ANTERIOR</i>	YES	

	<i>MID PART WITH FRESH BLEEDING MOVEMENT OF TCRS PRESENT ORTHO OPINION</i>		
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<i>Nature of injuries (Simple, Grievous, Dangerous or pending for observation)</i>
<i>INJURY TO DECLARE AFTER, 1 SURGERY, DENTAL OPINION 2, 3, 4 ORTHO OPINION 5, 6, 7, 8 SURGERY OPINION PATIENT, RELATIVES ARE ADVISED TO REPORT BACK IN 7 DAYS WITH ABOVE OPINION</i>
<i>Probable Duration of Injury</i>
<i>LESS THAN 6 HOURS</i>
<i>Kind of weapon used (Sharp, Blunt, Firearm, Fire, Poison etc)</i>
<i>3.4 BLUNT. 1, 2, 5, 6, 7, 8, SHARP</i>

Dr. Vivek Sabharwal (vsabharwal199@gmail.com)
23.03.2021 04:47:20 PM”

9. It is apparent that Vinod Kumar has received four injuries with sharp edged weapons on his occipital/parietal. The defence of the petitioner that he was not present at that spot appears to be an afterthought as at no point in time pursuant to the registration of the FIR in March, 2021 has he made any complaint to any authority about his false implication. In fact, it is his case that he allegedly approached the Investigating Agency with his defence of alibi only when he had filed his application for the grant of anticipatory bail. This fact has also been denied by the counsel for the State, who submits that there is no communication from the side of the petitioner pleading false implication while placing reliance on some CCTV footage.

10. Thus, apparently, the present case is one where the custodial interrogation of the petitioner is required to effect the recovery of weapons and to take the investigation to its logical conclusion qua the petitioner.

11. In view of the facts mentioned above and the seriousness of the allegations, the present petitioner does not deserve the concession of anticipatory bail and therefore, the petition is hereby dismissed.

(JASJIT SINGH BEDI)
JUDGE

04.08.2022

JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No