

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

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CRM-M-3976-2022

Date of Decision : **May 06, 2022**

ARJAN SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. S.S.Duhan, Advocate
for the petitioner.

Mr. Davinder Bir Singh, DAG, Punjab.

Mr. K.B.S.Mann, Advocate
for the complainant.

JASGURPREET SINGH PURI. J. (Oral)

Status report by way of affidavit of DSP, Sub-Division, Gidderbaha, District Sri Muktsar Sahib has been filed by the State which is taken on record. A copy of the same has been supplied to the learned counsel for the petitioner who has submitted that he has gone through the same.

The present petition is filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.214 dated 29.12.2021 under Sections 324, 341, 323, 34 of IPC (offence under Section 326 IPC added lateron), registered at Police Station, Kotbhai, District Sri Muktsar Sahib.

As per the FIR which was lodged on the basis of a complaint made by Jaspal Singh that he is a street vendor at Bus Stand Doda. On 27.12.2021 at about 7.00 p.m. when he was going to his house alongwith

his cart after completing the work and when he reached near the house of Charanjit Singh then three persons, namely, Mani Ram armed with kappa, Arjun Singh (petitioner) armed with kirpan and Boota Singh armed with kirch were standing there, who encircled him and started abusing him. When he stopped from doing so then Arjun Singh (petitioner) gave a blow of his kirpan upon him which hit him on the back side of his right shoulder. Thereafter Mani Ram gave a blow of his kappa upon him which hit him on the lower side of his right ear and during this Boota Singh gave a blow of his kirch upon him which hit below his right flank. Another blow was given by Mani Ram with his kappa which hit on his right ear and thereafter when the complainant started shouting then in the meantime one Balbir Singh son of Pritam Singh who is the son of his uncle came at the spot and on seeing him the accused persons ran away from the spot alongwith their weapons. The aforesaid Balbir Singh had witnessed this incident and thereafter he took the complainant to hospital.

The learned counsel for the petitioner has submitted that in the present case, the petitioner has been falsely implicated and there was unexplained delay of two days in lodging of the FIR and Section 326 IPC was added lateron. He submitted that the other co-accused, namely, Boota Singh has been granted interim bail by this Court on 31.1.2022 and the petitioner is also at parity with the aforesaid Boota Singh and, therefore, the petitioner may also be considered for the grant of anticipatory bail. He further submitted that the reason for false implication of the petitioner was that there was a previous enmity between the complainant and the petitioner.

On the other hand, the learned State counsel has submitted while referring to the affidavit filed by the DSP that firstly the petitioner was not at parity with the aforesaid Boota Singh in view of the fact that the grievous injury which was received by the complainant was attributable to the petitioner which was injury No.1 on the shoulder and that was the reason as to why Section 326 IPC was added vide DDR No.28 dated 12.1.2022. This injury No.1 was caused by the petitioner with kirpan. Secondly, apart from the same, the petitioner had been constantly threatening the eye-witness Balbir Singh whose name has been mentioned in the FIR itself and Balbir Singh is the person who has not only seen the incident but had also shifted the complainant/victim to the hospital and repeated threats were being made by the petitioner to the aforesaid eye-witness over mobile phone and, therefore, the petitioner is not at parity with the aforesaid Boota Singh and does not deserve the concession of anticipatory bail. He further submitted that the weapons especially the kirpan used by the petitioner is yet to be recovered and the petitioner is absconding and it is a case where the petitioner is threatening the eye-witness and, therefore, the custodial investigation of the petitioner was required.

Mr. K.B.S.Mann, Advocate has appeared on behalf of the complainant and has submitted that after the incident the petitioner had constantly threatened the eye-witness, namely, Balbir Singh over mobile phone and the conversation has been recorded by Balbir Singh and the same has been supplied to the police in which he has repeatedly and in a forceful manner threatened the aforesaid Balbir Singh.

I have heard the learned counsels for the parties.

So far as the argument raised by the learned counsel for the petitioner that the petitioner is at parity with the aforesaid Boota Singh is concerned, the same deserves to be rejected on the ground that the injury attributable to the petitioner was with kirpan which was on the shoulder and which has been declared as a grievous in nature and due to which Section 326 IPC was added and, therefore, the petitioner cannot be termed to be at parity with the aforesaid Boota Singh. Apart from the same, according to the learned State counsel and the learned counsel for the complainant and the affidavit filed by the DSP, the petitioner was constantly threatening the eye-witness, namely, Balbir Singh over mobile phone and the conversation has also been recorded by Balbir Singh and handed over to the police. The conduct of the petitioner in this regard would, therefore, dis-entitle the petitioner for the grant of anticipatory bail.

In view of the above, finding no merit in the present petition, the same 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.

(JASGURPREET SINGH PURI)
JUDGE

May 06, 2022
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No