

101

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

CRM-M-6429-2022

Date of decision : 15.02.2022

Basarat Ali

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sunny K. Singla, Advocate for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.10 dated 18.01.2022 registered under Sections 452, 323, 427, 148, 149 of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) at Police Station Division No.7, Ludhiana, District Police Commissionerate Ludhiana.

Learned counsel for the petitioner has submitted that in the present case, FIR has been registered after a period of five days from the date of incident inasmuch incident had occurred on 13.01.2022 and the FIR had been registered on 18.01.2022. It is further submitted that as per

the FIR, the petitioner is stated to be empty handed and has not been attributed any specific injury. It is argued that all the injuries on the person of the complainant are simple in nature. He has also referred to the MLR dated 13.01.2022 (Annexure P-2) of the present petitioner which would show that in fact, the present petitioner had also suffered four injuries, out of which, injury No.2 was lacerated wound of size 3 x 1 cm over left occipital region of skull. It is further argued that it is the complainant who had attacked the present petitioner and caused injuries to him and in fact, the incident had taken place outside the house of the complainant and thus, Section 452 of the IPC has been wrongly mentioned in the present FIR. It is contended that the petitioner is not involved in any other criminal case.

Notice of motion.

On advance notice, Mr. Saurav Khurana, DAG, Punjab, appears and accepts notice on behalf of the State and has submitted that he is fully prepared to argue the matter and assist this Court. He has opposed the present petition for grant of anticipatory bail to the petitioner and has submitted that although, as per the FIR, the petitioner was not armed with any weapon and has not been given any specific injury but the petitioner and the other co-accused had caused four injuries to the complainant and thus, does not deserve the concession of anticipatory bail.

This Court has heard the learned counsel for the parties and has perused the paper book.

FIR, in the present case, has been registered after a delay of 5 days inasmuch as the date of incident is 13.01.2022 whereas the FIR has been registered on 18.01.2022. Even as per the FIR, the petitioner is stated to be empty handed and there is no specific attribution against him. The injuries which have been caused to the complainant are stated to be simple in nature. The MLR dated 13.01.2022 (Annexure P-2) would show that in fact, the present petitioner had also suffered four injuries, out of which, injury No.2 was lacerated wound of size 3 x 1 cm over left occipital region of skull. The petitioner is stated to be not involved in any other case. It is version of the present petitioner that in fact, the incident took place outside the house of the complainant and even as per the allegations levelled in the FIR, it is version of the complainant that he was dragged outside his house and thus, whether Section 452 of the IPC is attracted in the present case or not, would be a matter of trial. Since, the petitioner was not armed with any weapon, therefore, nothing is to be recovered from him.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and in the event of arrest, the petitioner is granted the concession of anticipatory bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer and the conditions envisaged under Section 438(2) of Cr.P.C. However, the petitioner shall join the investigation as and when called upon to do so.

It is made clear, in case, the petitioner fails to join the

investigation or does not cooperate with the investigation, then the State would be at liberty to move an application for cancellation of the present anticipatory bail granted to the petitioner.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

15.02.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No