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

CRM-M-9104-2022
Date of decision : 04.03.2022

Harjinder Kumar @ Harjinder Kumar Bhatti

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

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

Mr. Sarabjit S. Cheema, AAG, 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 relied upon order dated 15.02.2022 passed by this Court in case of co-accused Basarat Ali in CRM-M-6429-2022 which would show that the co-accused of the present petitioner namely Basarat Ali 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 contended that said Basarat Ali had already been granted anticipatory bail by the abovesaid order. It is further argued that it is the complainant party who had attacked the said Basarat Ali and caused injuries to him and even the present incident had taken place outside the house of the complainant and, thus, Section 452 of IPC has been wrongly mentioned in the FIR. It is further contended that the present petitioner is not involved in any other case and he has been falsely implicated only on account of motive which has been given in the FIR itself. It is submitted that the petitioner's party is in possession of video, as per which, the complainant party was armed with iron pipe and they gave blow upon the head of Basarat Ali (co-accused). It is also submitted that the complainant is involved in another FIR i.e. FIR No.110 dated 19.04.2018.

Notice of motion.

On advance notice, Mr. Sarabjit S. Cheema, AAG, 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 as per the FIR, it is the present petitioner who had got the persons who had attacked the complainant and had also raised "lalkara" and

it is the present petitioner with whom there was enmity and as per the FIR, the petitioner used to throw bricks near the house of the complainant.

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

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. MLR dated 13.01.2022, which had been annexed as Annexure P-2 in case filed by Basarat Ali who had already been granted anticipatory bail vide order dated 15.02.2022 passed in CRM-M-6429-2022, would show that in fact, the said Basarat Ali (co-accused) 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. It is further the case of the petitioner that although no injury has been attributed to the petitioner but the petitioner has been implicated in the case by alleging that he had given "lalkara" on account of the fact, which has also been stated by the complainant in the FIR, that the petitioner used to throw bricks near the house of the complainant and the complainant used to stop him from doing

the same.

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.

04.03.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No