

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

CRM-M-19230-2022

Date of decision : 07.05.2022

Gurmukh Singh**...Petitioner****Vs.****State of Punjab****...Respondent****CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. P.S.Bhandari, Advocate for the petitioner.
Mr. Dhruv Dayal, Sr.DAG., Punjab.

MANOJ BAJAJ, J.

Petitioner has approached this Court under Section 438 Code of Criminal Procedure to seek anticipatory bail in case FIR No.0094 dated 17.09.2019 under Sections 324, 323, 379, 148 and 149 Indian Penal Code, 1860 (Section 326 IPC added later on) registered at Police Station Dera Baba Nanak, District Batala, who apprehends his arrest at the hands of Police.

The allegations in the FIR as noticed by the learned Additional Sessions Judge, Gurdaspur in the order dated 29.10.2019 are as under:-

“Brief facts of the prosecution case are that the present case was registered on the statement of Harpreet Singh alias Happy who stated that he is student of 10th +1 in Desmesh Public School, Kotli Surat Malian. He is desiring to serve in Army and by living in the village of his sister, he make practice in the ground of Government School. On 12.9.2019 at about 4.30 P.M, he was returning to the house to his sister and when he came on the mettled road, then Anmoldeep Singh son of Gurmukh Singh armed with datar, Maninderjit Singh son of Rajinder Singh armed with datar, Gurdip Singh son of

Gurdial Singh armed with datar, Dilpreet Singh son of Gurnam Singh armed with baseball, Gurmukh Singh son of Rajinder Singh armed with hockey and three unknown persons armed with hockeys came to him. Gurdip Singh raised lalkara to catch hold of him and teach him a lesson. On this, Maninderjit Singh attacked with his datar which hit on the wrist of his right arm. Thereafter, Anmoldeep Singh attacked with his dater which hit on his right side of his forehead. Dilpreet Singh gave a baseball blow which hit on his left shoulder. Then Gurdip Singh son of of Gurdial Singh attached with his datar which hit him on the tibia of his right leg. He fell down on the earth. In the same condition, Gurmukh Singh attacked with his hockey which hit him on the back side of his head and unknown persons also attached with their hockeys. His maternal cousin Baljinder Singh when came on the spot, all the assailants fled away from the spot alongwith their respective weapons. With these allegations, FIR in question was registered against applicant/accused and others.”

Learned counsel for the petitioner contends that though the petitioner has been named in the FIR, but has been falsely implicated as the alleged occurrence took place on 12.09.2019, whereas FIR was registered after a delay of five days on 17.09.2019. It is pointed out that cross case also stands registered at the instance of co-accused and at one stage, parties had also settled the dispute. According to him, the other co-accused have already been granted the concession of anticipatory bail, therefore, the petitioner also deserves the same concession. In this regard, he has invited the attention of the Court to Annexures P-3 to P-5 i.e. the order passed in respect of co-accused. It is prayed that as the petitioner is willing to join the investigation, therefore, concession of anticipatory bail be granted to him.

The prayer is opposed by learned State counsel assisted by

ASI Daljit Singh on the ground that the petitioner being member of unlawful assembly actively participated in the crime and specific role has been attributed to him.

During the course of hearing, it is not disputed by learned counsel for the petitioner that the compromise so arrived at between the parties has ceased to exist and his application for pre arrest bail was dismissed by Court of Sessions on 29.10.2019.

After hearing learned counsel, this Court finds that the alleged occurrence is admitted and as per allegations, the petitioner, who was armed with a hockey caused injuries upon complainant along with other co-accused. Further, accused has failed to justify the delay of approximate 2 years and 8 months in approaching this Court, therefore, he cannot claim parity with the other accused persons, who had approached this Court immediately after dismissal of their application by Court of Sessions. Apart from it, name of the petitioner along with other accused persons is specifically mentioned in the FIR, therefore, considering the seriousness of the crime, this Court is of the opinion that it is not a fit case for extending the concession of pre-arrest bail to the petitioner as his custodial interrogation may be necessary.

Dismissed.

(MANOJ BAJAJ)
JUDGE

07.05.2022

vanita

Whether speaking/reasoned :
Whether Reportable :

Yes
Yes

No
No