

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

CRM-M-20192-2022 (O&M)
Date of Decision:- 23.5.2022

Gurjeet Singh ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Harsimranpreet Singh, Advocate for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab
assisted by ASI Darshan Singh.

Mr. Navjot Singh, Advocate for the complainant.

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of anticipatory bail in a case registered against him vide FIR No. 158 dated 29.7.2021 under Sections 323, 427, 458, 506, 148, 149 IPC and under Section 25 of the Arms Act, 1959 at Police Station Dirba, District Sangrur.
2. The FIR was lodged at the instance of Lakhwinder Dass who has alleged that on 27.7.2021 at about 8:15 p.m., when his mother Paramjit Kaur was returning home after disposing of garbage, then Gurjit Singh followed her to their house where complainant and his younger brother Baljinder Dass were sitting. Gurjit Singh abused complainant's mother and said that although he had told them not to appear as a witness against him but despite that the complainant's mother had appeared as a witness against them in Police Line, Sangrur and that as such, he (Gurjit Singh) will shoot both of the sons.

Gurjit Singh pulled out his revolver and gave a kick to complainant's mother in her abdomen. When the complainant and his brother rushed forward to rescue their mother and tried to grab the revolver of Gurjit Singh, then Jagsir Khan armed with a sword, Kuldeep Khan carrying a stick, Jagsir Singh armed with an axe and Amandeep Singh carrying a stick entered their house. Jagsir Khan inflicted two blows with his sword on the head of the complainant above his left ear. Gurjit Singh hit Baljinder Dass with the butt of the pistol on his forehead. Jagsir Singh gave a blow with axe on the head of Baljinder Dass. Kuldeep Khan and Amandeep Singh damaged the main gate of their house with sticks.

3. The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that in any case although the petitioner is stated to be armed with a revolver but no shot is stated to have been fired from the revolver and that he is attributed a kick blow to complainant's mother in her abdomen and is also stated to have inflicted an injury on the head of complainant's brother Baljinder Dass with the butt of the pistol whereas three serious injuries are attributed to Jagsir Khan and Jagsir Singh.
4. It has further been submitted that since co-accused Amandeep Singh and Kuldeep Khan have already been granted anticipatory bail and co-accused Jagsir Singh has been granted regular bail, the petitioner deserves the concession of anticipatory bail as well.
5. It has further been submitted that the trial Court was mainly influenced by the fact that the petitioner is involved in 16 other cases whereas the said fact cannot be made a basis for rejecting bail, as has been held by Hon'ble

Supreme Court in 2020 (11) SCC 648 - Prabhakar Tewari versus State of U.P. & Another.

6. On the other hand, the learned State counsel assisted by counsel for the complainant has submitted that since the petitioner is specifically named in the FIR and is also stated to be carrying a revolver, though no shot is stated to have been fired but is stated to have inflicted an injury to the complainant's mother by way of giving her a kick blow in her abdomen and is alleged to have inflicted another injury to Baljinder Dass on his forehead with the butt of pistol, no special case for grant of anticipatory bail is made out.
7. I have considered rival submissions addressed before this Court.
8. Undoubtedly, the petitioner is named in the FIR and specific allegations are levelled against him of inflicting injuries to complainant's mother and to Baljinder Dass, brother of the complainant. The injury on the head of Baljinder Dass was inflicted with the help of butt of the pistol which the petitioner was carrying. The injuries are duly substantiated from medical record. The learned State counsel has today furnished particulars of as many as 16 cases pending against the petitioner. The petitioner cannot get any advantage from the fact that the co-accused Amandeep Singh and Kuldeep Khan have been granted bail by this Court inasmuch as the said persons were carrying sticks only and as per the FIR, the allegations against them are that they had damaged the main gate with the sticks in their hands. The said two persons are not stated to have inflicted any injury to the complainant or to injured. As regards, the grant of regular bail to co-accused Jagsir Singh @ Jaggi is concerned, the consideration for grant of

anticipatory bail are entirely different from the considerations which may be looked into at the time of grant of regular bail and thus, the factum of grant of regular bail to co-accused Jagsir Singh will be in consequential. The role attributed to the petitioner would certainly require his custodial interrogation inasmuch as the pistol used which he was carrying would also be required to be recovered. As far as the judgment pressed into service by learned counsel for the petitioner is concerned i.e. Prabhakar Tewari's case, the relevant extract of the said judgment reads as follows :-

“The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail. The High Court has exercised its discretion in granting bail to the accused Vikram Singh upon considering relevant materials. No ex-facie error in the order has been shown by the appellant which would establish exercise of such discretion to be improper. We accordingly sustain the order of the High Court granting bail.”

9. In the cited case, the petitioner Prabhakar Tewari, son of the victim had approached Hon'ble Supreme Court challenging order of the High Court granting bail to accused Vikram Singh. While five co-accused of Vikram Singh were alleged to have fired at the deceased/victim, Vikram Singh was sought to be involved, being a conspirator to the crime. One of the eye-witnesses had stated that he had seen Vikram Singh standing on national highway fly-over on the date of occurrence alongwith 6-7 accomplices and that all of them were talking about plans of killing the victim.
10. There is certainly no dispute as regards the ratio of the cited judgment and it goes without saying that an application for grant of bail is not to be dismissed solely on the ground that accused happens to be involved in

several other cases. The factual position cannot be given a go-bye under any circumstances. The cited case pertained to cancellation of bail and it was a case where the accused who had been granted bail was alleged to have conspired and not to have actually fired at the deceased. Such circumstances certainly would not warrant cancellation of bail merely on the ground that the accused had a chequered record. However, in the present case, the petitioner is not only specifically named in the FIR but specific role is also attributed to him. Still further, the petitioner in the present case is seeking grant of anticipatory bail and it is not a case where accused is seeking regular bail.

11. Having regard to the aforestated factual position wherein the petitioner is alleged to have inflicted two injuries including an injury on the head of complainant's brother with the butt of a pistol and his case is distinct from the other co-accused, who have been granted anticipatory bail who had merely damaged the gate and had not inflicted any injury to any member of the complainant party, no special case for grant of anticipatory bail is made out.
12. The petition is sans merit and is hereby dismissed.

23.5.2022

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No