

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-24444-2022 (O&M)

Date of Decision:-31.8.2022

Lakhvir Singh @ Lakhi

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. L.S. Sekhon, Advocate for the petitioner.

Ms. Swati Batra, DAG, Punjab,
assisted by ASI Sikandar Singh.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.26, dated 5.3.2022, Police Station Dayalpura, District Bathinda, under Sections 307, 336, 323, 148, 149, 506 of Indian Penal Code and Sections 25 and 27 of Arms Act.
2. Reply by way of affidavit of Shri J. Elanchezhian, IPS, Senior Superintendent of Police, Bathinda has been filed by learned State counsel, which is taken on record.
3. The FIR was lodged at instance of Lakhwinder Singh @ Kulwinder Singh, wherein it is alleged that on 5.3.2022 at about 07:08 a.m., he had telephonically called Gurmeet Singh @ Baggi and had asked him to return

the amount of Rs.6,000/-, which he had earlier advanced to him. Gurmeet Singh @ Baggi told the complainant to come near Gurdwara Gandhu Sahib, Burj Throd for taking the amount. At about 09:30 a.m., when the complainant reached near Gurdwara Gandhu Sahib, Burj Throd, then he found that a number of persons were standing there and were beating his friend Gurmeet Singh @ Baggi and they all were armed with firearms, *kirch*, swords. The complainant tried to pacify them. In the meantime, two more vehicles came there and six persons alighted from one vehicle, who were Baltej Singh, Simranpreet Singh @ Sonu, who were both carrying pistols, accompanied by 4 unknown persons. The aforesaid persons had alighted from a silver coloured Alto Car. Another 6 persons alighted from the other car, which included Lakhi (petitioner) accompanied by 5 unknown persons, who were all carrying sharp edged weapons. Lakhi is stated to be carrying a sword while the others were carrying iron rod, *kirch*, *khanda*, swords etc. When the complainant tried to stop them, Baltej Singh fired a shot with his pistol hitting the complainant on his left thigh. Simranpreet Singh @ Sonu also fired from his pistol aiming at Gurmeet Singh @ Baggi but the complainant pushed Gurmeet Singh @ Baggi and as a result of which the shot did not hit him. Lakhi is alleged to have given a blow to Ekam Singh but Ekam Singh warded off the blow by raising his arm. Thereafter the said persons ran away from the spot with their respective weapons in their vehicles.

4. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case and that the falsity would be established from the fact that no medical record is there to establish the allegations to the effect that any injury had been sustained by Ekam Singh though in the FIR it is stated that the petitioner had inflicted a blow with sword to Ekam Singh on

his arm. Learned counsel has further submitted that even as per the reply filed by State, the presence of petitioner at the spot is rather doubtful inasmuch he at about 10:08 a.m. was found to be about 26 kilometers away from the place of occurrence, which is stated to have taken place at about 09:30 a.m. It has been submitted that though it could be practically possible for the petitioner to have traveled about 30 kilometers within a period of about 35 odd minutes but given the fact that no injury was found on the person of Ekam Singh, the allegations *prima facie* cannot be said to be fully substantiated.

5. Opposing the petition, learned State counsel has submitted that since the petitioner is specifically named in the FIR and the call detail record does not absolutely negate his presence at the spot since the call detail record shows that the petitioner, at 10:08 a.m., was present at a place about 26 kilometers away from place of occurrence and as such he could have easily been present at the place of occurrence at 9:30 a.m. Learned State counsel, upon instructions from ASI Sikandar Singh, has informed that the petitioner otherwise is not involved in any other case.
6. I have considered rival submissions addressed before this Court.
7. It is no doubt correct that the petitioner is named in the FIR and there are allegations to the effect that he had inflicted an injury to Ekam Singh, which Ekam Singh warded off with his arm. However, there is no medical evidence to substantiate the said allegations. Still further the call-detail record collected by the police could create some kind of doubt regarding the presence of petitioner at the spot though his presence at the spot cannot be said to be absolutely impossible as the petitioner after about half an hour of

the occurrence was found to be 26 kilometers away from the place of occurrence, whereas in the case of several other accused their presence at the spot is duly established from call details record. The petition, as such, is accepted and it is ordered that the petitioner, in the event of arrest, be released on bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join investigation as and when called upon to do so and cooperate with the Arresting/Investigating Officer and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

8. It is, however, made clear that none of the observations made above shall be construed to be an expression on merits of the main case.

31.8.2022

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No