

203-A

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

(1)

**CRM-M No.34776 of 2021
Date of Decision: 07.01.2022**

Jatinder Singh

.....Petitioner.

Versus

State of Punjab

.....Respondent.

(2)

CRM-M No.34759 of 2021

Jarnail Singh

.....Petitioner.

Versus

State of Punjab

.....Respondent.

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present: Mr. Rohan Sharma, Advocate
 for the petitioner(s).

Ms. Samina Dhir, D.A.G, Punjab
for the respondent-State.

MEENAKSHI I. MEHTA, J.

Apprehending their arrest in the criminal case arising out of the FIR bearing No.0138 dated 31.05.2021 registered at Police Station Sadar, District Patiala, under Sections 307, 324, 506 read with Section 34 IPC, both the petitioners, above-named, have preferred the afore-mentioned separate petitions to seek the relief of anticipatory bail which are being taken up together for discussion and adjudication as these have arisen out

of the same FIR.

Shorn and short of unnecessary details, the allegations, as levelled by the complainant-injured named Santokh Singh in the subject FIR, are that on 31.05.2021, at about 08.30 AM, petitioner Jarnail Singh, who was accompanied by petitioner Jatinder Singh and their co-accused Malkeet Singh @ Malli, hit his car with his (complainant's) motorcycle. Thereafter, on the same day, at about 10.10 AM, while he (complainant) and his neighbour Gurmeet Singh @ Goldy were standing near Gurudwara Sahib, both the petitioners and their said co-accused came there in the car and caused injuries to him and Gurmeet Singh @ Goldy with *Gandasi* and *Kirch*. In the meantime, their another co-accused named Harjinder Kaur @ Billi also came there and exhorted that they (complainant and Gurmeet Singh) should not be spared.

In **CRM-M No.34776 of 2021**, the status-report as well as Annexures R-1 to R-4 and their vernaculars, as forwarded by learned State counsel to the Court through *e-mail*, are taken on the record. Status-report has already been filed in **CRM-M No.34759 of 2021**.

I have heard learned counsel for the petitioner(s) as well as learned State counsel in both the instant petitions and have also perused the files thoroughly.

Learned counsel for the petitioner(s) contends that the injuries sustained by the complainant and Gurmeet Singh @ Goldy have been declared to be simple in nature and therefore, no offence under Section 307 IPC is made out in the present case and even otherwise, the petitioners have

been got falsely implicated in this case because in fact, it was the complainant party who were the aggressors and had opened the attack on the accused party and in these circumstances, the petitioners deserve the relief as prayed for in these petitions.

Per contra, learned State counsel argues that the seat of the injuries attributed to the petitioners happens to be the chest of both the afore-said injured persons and therefore, the offence under Section 307 IPC has correctly been invoked in the said FIR and moreover, the petitioners and their co-accused had come to the place of occurrence in their vehicle and their another co-accused had joined them there and they had caused injuries to both the injured persons with deadly weapons like *Gandasi* and *Kirch* and keeping in view these circumstances, both the present petitions be dismissed.

So far as the contention raised by learned counsel for the petitioners regarding the offence under Section 307 IPC is concerned, though vide Annexures R-3 and R-4, the injuries sustained by the complainant and said Gurmeet Singh @ Goldy have been declared to be simple in nature but this Court cannot lose sight of the fact that the petitioners are specifically alleged to have given *Kirch* blows on the chest of these injured persons which, undisputedly, is one of the vital parts of the body. *Mens-rea* and knowledge are the key decisive factors to determine as to whether the offence under Section 307 IPC is made out in a case or not and this fact can and shall be looked into and adjudicated upon by the trial Court at the appropriate stage after appreciating and evaluating the

evidence that may be led on the record during the course of the trial and the same cannot be ascertained while deciding the present petitions.

As regards the contention qua the complainant party being the aggressors, it is again worth-while to mention here that this aspect shall also be a subject matter for consideration and determination before/by the trial Court at the relevant stage in the light of the evidence which may be led on the file during the trial proceedings and the same cannot be decided at this stage.

Keeping in view the afore-discussed facts and circumstances as well as the nature of the offence as alleged to have been committed by both the petitioners, this Court is of the considered opinion that they (petitioners) do not deserve the relief of anticipatory bail.

Resultantly, both the petitions in hand stand dismissed.

However, it is clarified that nothing contained here-in-before shall be construed to be an expression of the opinion of this Court on the merits of the case.

January 07, 2022
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*