

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

**CRM-M-36283 OF 2022
Date of Decision:- 18.08.2022**

Kulwinder Singh

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM:HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present Mr.Vishal Sharma. Advocate.
with Ms.Shinder Sandhu, Advocate, for the petitioner.
Mr. Saurav Khurana, DAG, Punjab.
Mr. L.S.Sidhu, Advocate for complainant.

SANDEEP MOUDGIL, J

The present petition under Section 438 Cr.P.C has been filed for grant of anticipatory bail to the petitioner in case FIR No.62 dated 13.07.2022, under Sections 307,323,324,341,148 and 149 IPC, registered at Police Station Jhunir, District Mansa, Punjab.

Learned counsel for the petitioner contends that the petitioner was armed with sword and attributed one blow to the complainant which hit him on the right side of his face and another to his father on his left thigh. Counsel argues that Section 307 IPC is not made out against the petitioner as there was no intention to kill the complainant or anybody else and FIR itself shows that it was a sudden occurrence and even there was no enmity between them. It is further submitted that the petitioner has been falsely implicated in the present case as it is a case of version and cross version and it is yet to be decided who is the aggressive party and culpability of the petitioner is yet to be decided. He has also asserted that there is delay of 2 days in lodging the FIR. Learned counsel concludes arguing that there is no medical evidence to prove the injuries

attributed to the petitioner to be dangerous to life and therefore, the petitioner is entitled to the concession of anticipatory bail.

Learned State counsel has vehemently opposed the bail application by contending that the petitioner has committed heinous crime inflicting injuries to complainant and his father, which were dangerous to life. He has referred to the specific allegations recorded in the FIR to the effect that the petitioner – Kulwinder Singh was armed with sword who along with others firstly rounded up the injured/complainant and thereafter gave sword blow, which hit on the right side on his face. The brutal attack did not stop here as the petitioner Kulwinder Singh gave another sword blow to the father of the complainant hitting on his left thigh.

Heard both sides and perused the paper-book.

The concession of pre-arrest bail is not to be granted in a routine manner until and unless the parameters laid down in Section 438 Cr.P.C. are fulfilled by the petitioner. He has been attributed specific role in commissioning of crime and inflicting injuries with sword to the complainant with the intention to kill which hit on the right side on his face. The intention of hitting with the sword at that part of the body wherein clearly demonstrate the essence of intention to kill *prima facie* against the petitioner. Moreso, the petitioner was a part of such a group which was armed with all sharp edged weapons like gandasa and sword including iron rods.

This Court is sanguine of the fact that the nature of injuries are such wherein intention is to be seen *prima facie* as is evident from the act and manner of the accused persons including the petitioner who has been attributed a specific role of causing serious injuries on the right side of face which shows the intent of hitting in that area but fortunately the complainant escaped. It is

also to be kept in mind that the recovery of weapon is yet to be effected which is vital for purpose of investigation enabling it to reach to a logical conclusion and therefore, custodial interrogation is must.

Hence, this Court do not find any infirmity in the order dated 09.08.2022, passed by the Additional Sessions Judge, Mansa, vide which the application under Section 438 Cr.P.C to grant anticipatory bail was dismissed.

Hence, in view of the circumstances in the present case and the discussion made hereinabove, the present petition being devoid of merits stands dismissed.

However, the above observations may not be construed as an expression of opinion on the merits of the case during the course of the trial.

18.08.2022
mamta

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>