

(102) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-44687-2022
Date of Decision: 27.09.2022

HARPEET SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Nikhil Anand, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, D.A.G, Punjab.

Mr. Surjit Singh Swaich, Advocate for the complainant.

JASJIT SINGH BEDI, J.

This 2nd petition has been filed under Section 438 Cr.P.C. for the grant of anticipatory bail in case bearing FIR No.17 dated 03.03.2022 registered under Sections 308, 323, 341, 295, 384, 171-E, 148 and 149 IPC, 1860 with Police Station Qadian, District Batala.

2. The brief facts of the case are that the statement of Harpeet Singh son of Sh. Pal Singh was recorded who stated that on 20.02.2021, the polling for the Lok Sabha seats was taking place and he had taken his grandmother Dalbir Kaur wife of Manjit Singh to the school for casting a vote. When he reached the school at about 04.00 PM, then he saw Harpeet Singh son of Jagir Singh (the petitioner) Raju and sister of Raju, Manjit Kaur wife of Gursewak Singh, Babita Khosla wife of Rajesh Khosla and Rajesh Khosla son of Gama distributing money to the voters. On seeing him, Babita Khosla

raised a *Lalkara* upon which Harpreet Singh alias Musla, the petitioner came with a baseball bat with 5-6 other persons carrying sticks and surrounded him (complainant). Harpreet Singh attacked him with a baseball bat which hit on his left side of the chest/heart side. The petitioner caught hold of his beard and took off his turban. Thereafter, Rajesh Khosla attacked him with a stick, two unknown persons also attacked him with sticks on his head and foot. When he raised a noise, the accused ran away from the spot. Babita Khosla, Manjit Kaur and Raju took off his jacket which contained his passport and mobile phone. Thereafter, he was taken to the hospital for treatment. The motive behind the incident was that the opposite party was seen distributing money near the polling booth and he (complainant) had seen them doing so.

3. The first anticipatory bail had been filed by the petitioner and the same came to be dismissed as withdrawn in this Court vide order dated 12.09.2022 passed in CRM-M-41653-2022 (Annexure P-6). This is the second anticipatory bail petition.

4. The learned counsel for the petitioner contends that there is an inordinate delay in the registration of the FIR, which is unexplained. The complainant had made a statement almost 09 days after the incident which shows that the entire story has been fabricated. As per the statement of the complainant, he was taken to Civil Hospital, Qadian by a person namely Daljit Singh from Himachal Pradesh but in fact, the complainant was taken to Civil Hospital, Bham which is a Community Health Centre. He contends that it is highly improbable that a person who had suffered injuries and was having broken ribs would travel a distance of 85 Kms just to get his CT Scan and X-ray done. He further contends that there were as many as 05 other

FIRs against the petitioner and in some of them, the matter stands compromised, he has been discharged or acquitted. He thus, contends that the petitioner be granted the concession of anticipatory bail.

5. On the other hand, the learned State counsel contends that the petitioner is the main accused having caused a baseball bat blow on the chest of the complainant, which has caused fractures of the fourth, fifth, sixth and seventh rib and accompanying respiratory distress. He contends that the accused persons were in the midst of distributing money during the course of polling when the occurrence took place and the complainant had raised his voice against the same. He thus, contends that the petitioner being the main accused does not deserve the concession of anticipatory bail looking at the attending circumstances as also his criminal antecedents. So far as the delay in registration of the FIR is concerned, he contends that there is laxity on the part of the Investigating Officer, who did not make proper efforts to reach the complainant who had been referred to Guru Nanak Hospital, Amritsar and the effect of the same would be seen at the appropriate stage.

6. The learned counsel for the complainant also states that the statement of an injured witness who has received grievous injuries cannot be doubted at this stage and therefore the petitioner being the main accused was not entitled to the grant of anticipatory bail.

7. I have heard the learned counsel for the parties at considerable length.

8. When the first bail application had come up for hearing, virtually identical grounds were raised for the grant of anticipatory bail and when the Court was not agreeing to the grant of relief as sought, a prayer was made to

withdraw the petition pursuant to which the order dated 12.09.2022 (P-6) came to be passed.

9. The contention of the counsel for the petitioner that there is a delay in registration of the FIR which makes the prosecution case doubtful cannot be accepted to be correct at least at this stage. In fact, the occurrence took place on 20.02.2021. The complainant was initially taken to Civil Hospital, Qadian but various persons belonging to the petitioner party were present there and therefore, Daljit Singh took the complainant to the Civil Hospital, Bham where once again the accused party did not allow him to get admitted there as well. Pursuant thereto, he was taken to Civil Hospital, Bhaini Mian Khan, where the doctor gave him treatment. As per the Police investigation, an MLR dated 22.02.2022 was handed over to ASI Sarvan Singh by the petitioner on which four injuries were stated to have been written and inflicted from a blunt weapon. Injuries No.1, 2 and 4 were kept under observation, whereas injury No.3 was declared to be simple in nature. The ASI concerned had gone to Civil Hospital, Bhaini Mian Khan where the doctor told him that the petitioner had been sent to Guru Nanak Hospital, Amritsar for a CT Scan regarding which ASI Sarvan Singh had made an entry No.21 dated 22.02.2022 in the *Roznamcha*. On 23.02.2022, ASI Sarvan Singh along with the Police officials had gone to Civil Hospital, Bhaini Mian Khan to record the statement of the complainant but he was told that the complainant had been sent to Guru Nanak Hospital, Amritsar for a CT Scan. An entry in the *Roznamcha* was made regarding the same on 23.02.2022 as well. It was thereafter on 01.03.2022, when the complainant appeared before

the Investigating Officer, presented a CT Scan and film that the doctor who had kept injury No.1 under observation gave the report as under:-

“To SHO-PS Qadian. This is to inform that injury no.1 in MLR No.HBS/CHC/BMK/2022/7 of Harpreet Singh, son of Pal Singh, 35 Y/M, R/o Qadian, District Gurdaspur which was kept under observation for CT and x-ray opinion is declared possibility dangerous to life by Director of Principal of Office, GMC, Amritsar, Department of Radiograms due to fracture of fourth, fifth, sixth and seventh rib and accompanying respiratory distress caused by the same. NCCT Films enclosed along with handwritten report from GMC Amritsar and also got his statement recorded.”

Based on the said report and the statement of the complainant that the aforementioned FIR came to be registered.

10. It may be relevant to mention here that it is unlikely that the injuries on the chest leading to fractures could be self-suffered or manipulated in any manner. And even otherwise, the delay in registration of the FIR has been properly explained. Further, the criminal antecedents of the petitioner have been set out in para 12 of the petition and it is apparent that though the petitioner has been discharged or acquitted in some of these cases, it cannot take away the fact that the antecedents of the petitioner are doubtful.

11. In view of the rival contentions of both the parties and going through the records of the case, it is apparent that the allegations against the petitioner are extremely grave. The occurrence took place when the petitioner and his companions were distributing money during elections in order to influence voters to cast their vote in favour of a particular candidate. It is at

that stage when the complainant reached there and was assaulted by the petitioner and his co-accused. The nature of the assault was such that the complainant has suffered the fracture of four of his ribs, his beard pulled and his Turban removed.

12. In view of the seriousness of the allegations and the fact that the recovery of the weapons is to be effected and for taking the investigation to its logical conclusion, the custodial interrogation of the petitioner is certainly required, therefore, the present petition is hereby dismissed.

(JASJIT SINGH BEDI)
JUDGE

27.09.2022

JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No