

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

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Reserved on 13.12.2022
Pronounced on 14.12.2022

(i) CRM-M-45215-2022
Parminder Singh Petitioner

Versus

State of Punjab Respondent

(ii) CRM-M-45631-2022
Arshpreet Singh Petitioner

Versus

State of Punjab Respondent

(iii) CRM-M-46032-2022
Manjinder Singh @ Zed Petitioner

Versus

State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Argued by: -Dr. Rau P.S. Girwar, Advocate
for the petitioners in CRM-M-45215-2022 and
in CRM-M-45631-2022.

Mr. Arshdeep Singh Brar, Advocate
for the petitioner in CRM-M-46032-2022.

Mr. Jaspal Singh Guru, Asstt. A.G., Punjab
for the respondent-State.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioners have filed the present petitions under
Section 438 of the Code of Criminal Procedure, 1973 for grant of
anticipatory bail in case FIR No.181 dated 23.08.2022 registered under

Sections 308, 323, 148 and 149 of the Indian Penal Code, 1860 and Sections 25 and 27 of the Arms Act, 1959 at Baghapurana, Moga.

Replies dated 07.12.2022 by way of an affidavit of Sh.Jasjyot Singh, PPS, Deputy Superintendent of Police, Baghapurana, District Moga have been filed in CRM-M-46032-2022 and CRM-M-45215-2022 in the Court today which are taken on record.

The above-said FIR was registered on the basis of statement of Harwinder Pal Singh alleging that he has 03 sons and 01 daughter. His sons Lachhman Singh and Bhag Singh are practicing Badminton every evening at Sant Gurmail Singh Lapon Wale Ground from their coach Birbal Sharma. On 22.08.2022, at about 9:00 p.m. when his sons did not return home, he visited the ground to take them. His sons along with other boys were practicing there. One boy namely Zed along with his companions was also present there. Then 10-15 boys armed with weapons came in the ground and started quarreling with Zed etc. Out of them, one boy raised lalkara and with intention to kill his son Lachhman Singh, fired shot at him, which hit his son on right thigh. He took his son on his motorcycle to Hospital. When he enquired about the assailants, he came to know that those are Chaahit Khatri, Mandeep Singh, Jugraj Singh @ Lakhi, Happy Katra, Balraj Singh @ Ballu, Rahul Sharma, Manjinder Singh @ Zed, Arshpreet Singh, Parminder Singh, Gopi and some unidentified persons.

Learned counsel for the petitioners have argued that the petitioners have been falsely implicated in the present case. In fact on the date of incident, 40-50 goons armed with weapons brutally beaten

petitioner-Manjinder Singh @ Zed and petitioner-Arshpreet Singh and when petitioner-Parminder Singh reached at the spot, the accused were fled away. Petitioners-Manjinder Singh @ Zed and Arshpreet Singh suffered various injuries during the occurrence. FIR No.182 dated 23.08.2022 under Sections 341, 323, 506, 148 and 149 of the IPC has also been registered at Police Station Baghapurana, Moga on the complaint made by petitioner-Manjinder Singh @ Zed. The present FIR is nothing but a counter-blast of the FIR registered on the statement of complainant Manjinder Singh @ Zed. The petitioners are also victim of the whole incident. Nothing has to be recovered from the petitioners and their custodial interrogations are not required in the case. The petitioners are also ready and willing to join investigation.

Per contra, learned State counsel has opposed the present petitions on the ground that the petitioners have actively participated in the alleged offences. Out of 10 accused, 06 have been arrested so far. The custodial interrogation of the petitioners are required for unearthing the entire sequence of events, identification of remaining unidentified accused involved and recovery of weapon used in crime. Therefore, the petitioners are not entitled for grant of benefit of anticipatory bail.

I have heard learned counsel for the parties and gone through the paper-book.

So far as, the contention of learned counsel for the petitioners that it is a case of cross-version is concerned, suffice it to say that though, another FIR No.182 dated 23.08.2022 under Sections

341, 323, 506, 148 and 149 of the IPC at Police Station Baghapurana, Moga has also been registered on the basis of MLR besides statement of petitioner-Manjinder Singh @ Zed against Sahil Swami, Chahal Khatri, Mandeep Singh, Jugraj Singh @ Lakhi, Happy Kataria, Balram, Rahul Sharma and others, but the said FIR has not been lodged by the petitioner against complainant of the present case namely-Harwinder Pal Singh or his injured son Lachhman Singh who has suffered fire-arm injury.

During the investigation of case, accused Mandip Singh s/o Nirmal Singh and Jugraj Singh s/o Chamkaur Singh were arrested on 23.08.2022 whereas, accused Rahul Sharma s/o Rajiv Kumar was arrested on 25.08.2022. From the up-to-date investigation besides interrogation and statement of above-mentioned arrested accused Jugraj Singh, it reveals that on 22.08.2022, on the directions of petitioner-Manjinder Singh @ Zed, accused-Jugraj Singh along with co-accused Mandip Singh, by mean of Motorcycle No.PB-29U-6835 of said Mandip Singh, had gone to the stadium situated at the back side of Gurudwarda Baba Gurmel Singh, in order to assault Sahil Suwami for taking avenge. It was further revealed that on the asking of petitioner-Manjinder Singh @ Zed, gun shots were fired by petitioners-Parminder Singh and Arshpreet Singh which hit Lachhman Singh son of the complainant and only petitioners-Parminder Singh, Arshpreet Singh and Manjinder Singh @ Zed have knowledge about the location of weapon used in crime. It was petitioner-Manjinder Singh @ Zed who lead and controlled the entire altercation took place at the time of

occurrence which resulted into use of fire arms due to which Lachhman Singh got fire arms injury. Petitioner-Manjinder Singh @ Zed is also involved in another case FIR No.153 dated 16.07.2022 registered under Section 304 of the IPC at Police Station Baghapurana and in the said case he has not yet been arrested being absconding and evading his arrest.

There are serious allegations against the petitioners are of having being an active member of unlawful assembly and having fired gun shorts with intention to kill which hit on the left thigh of Lachhman Singh son of the complainant. Moreover, the investigation is still going on, and therefore, their custodial interrogation are necessarily required for un-earthing the entire sequence of events, identification of remaining unidentified accused involved and recovery of weapon used in the crime.

It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C. is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Hon'ble Supreme Court in ***State Vs. Anil Sharma : (1997) 7 SCC 187*** held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconded with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is

fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

Keeping in view facts and circumstances aforementioned and nature of injuries, the petitioners do not deserve the concession of anticipatory bail. Hence, the present petitions are hereby dismissed.

14.12.2022

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(ASHOK KUMAR VERMA)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No