

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

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CRM-M-835-2023

Date of decision : 01.02.2023

Rajwinder Singh @ Billa

....Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Ms. Jaspreet Kaur, Advocate for the petitioner.

Mr. Joginder Pal Ratra, Senior D.A.G., Punjab.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 438 of the Cr.P.C. for grant of anticipatory bail in case FIR No.189 dated 27.11.2022 registered under Sections 307, 451, 323, 324 and 34 of the Indian Penal Code, 1860 (to which Section 326 of the IPC was added later on) at Police Station Nakodar Sadar, District Jalandhar.

Brief facts of the case are that the above-said FIR was registered on the complaint of complainant-Sahil alleging that on 22.11.2022 when he was present in the liquor shop, three persons came there and asked for liquor on lessor rate but he told them that if they want to purchase liquor on lessor rate, they should talk to the owner of the liquor shop. On which those persons left the place. At about 7:30/8:00 p.m., those persons namely Amlok Singh, Preeta and Billa (the petitioner) having weapons in their hands came back and forcibly entered into the liquor shop. They all gave 'datar' blows on the head of the complainant. When the complainant became unconscious, the accused persons dragged him towards outside of liquor shop and again inflicted injuries upon him.

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. No specific role has been attributed to the petitioner. The dispute arose between co-accused Amlok Singh and the complainant in which they both were injured and admitted in hospital. All the injuries inflicted upon the complainant was simple in nature and self-suffered. The FIR was registered under Section 307 of the IPC without consulting the doctor or without any medical document. There is undue and unexplained delay of 05 days in lodging of the FIR. Nothing is to be recovered from the petitioner and his custodial interrogation is not required in the case. The petitioner is also ready and willing to join investigation. Therefore, the petitioner may be granted anticipatory bail.

On the other hand, learned State counsel opposed the present petition on the ground that the petitioner has actively participated in the alleged incident and he has been specifically named in the FIR. The petitioner along with his co-accused caused multiple injuries to the complainant with the sharp edged weapon. For thorough investigation of the case custodial interrogation of the petitioner is required. Therefore, the petitioner does not deserve the concession of anticipatory bail.

Having heard learned counsel for the parties, I am of the view that the allegations against the petitioner are serious in nature. The petitioner was specifically named in the FIR. As per MLR, 11 injuries were caused upon the complainant with a sharp edged weapon which fully supported the version of the prosecution.

Furthermore, investigation is still going on in the present case. For thorough investigation of the case, custodial interrogation of the petitioner is necessary. 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 ensconced 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 the aforementioned facts and circumstances and nature of averments, the petitioner does not deserve the concession of anticipatory bail. Hence, the present petition is hereby dismissed.

01.02.2023

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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No