

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.210

Case No. : CRM-M-3526-2023

Date of Decision : February 15, 2023

Harvinder Singh Petitioner

vs.

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Arjun Atri, Advocate
for the petitioner.

Mr. Jaiteshwar S. Bhandari, AAG, Punjab.

Mr. Tarun Sharma, Advocate
for Mr. Ramandeep Singh, Advocate
for the complainant.

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GURBIR SINGH, J. :

This is a petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.149 dated 08.08.2022, under Sections 324, 427, 434/34 IPC (Section 326 IPC added later on), registered at Police Station City Samana, District Patiala.

Pursuant to the order dated 23.01.2023, passed by this Court, Status Report by way of Affidavit of Saurav Jindal, PPS, Deputy Superintendent of Police, Circle Samana, District Patiala, on behalf of respondent-State of Punjab, has been filed today in Court, which is ordered to be taken on record.

As per the allegations, the complainant has his land adjoining the land of the petitioner. They are having dispute with regard to common intervening boundary of their lands. On the application of the complainant, land was demarcated and *burjis* (small pillars) were affixed but sons of the petitioner dugged out said *burjis* and Kanungo wrote a letter to the Deputy Commissioner for police help. With the help of police, as per demarcation, *burjis* were again affixed on 16.06.2022. On 04.07.2022, the complainant along with others were preparing their field to sow paddy crop when the petitioner raised *lalkara* and started saying to take out the tractor from the fields. An application for stay was filed in the Civil Court and the same was pending. On 10.07.2022, when they were planting paddy in their fields, then the petitioner along with his son Parminder Singh came there and stopped the engine of the tractor. They started beating him. The petitioner was carrying a sword and he gave a blow with the sword which hit left hand of the complainant. Then Parminder Singh gave him fist blows. They threw him on the ground and gave him kick and fist blows. On hearing his hue and cry, Rachpal Singh was attracted and rescued the complainant from the petitioner and his son. Thereafter, both of them left the spot along with their weapon while giving threats to the complainant.

Learned counsel for the petitioner has submitted that the petitioner had already filed a Civil Suit. Ex-parte ad-interim injunction was granted in favour of the petitioner (Annexure P-3). The petitioner was given injuries. He also got himself examined on the same day. He has placed on the file a copy of the Medico Legal Report showing that there were seven injuries on the person of the petitioner.

Learned counsel for the petitioner further submits that it is the case of version and cross-version. It is yet to be established as to what role is attributed to the each party. He has referred to the photographs of his fields where he was seen sitting and many persons were standing there. He further submits that the custodial interrogation of the petitioner is not required. It has also been contended that the petitioner got recorded his statement before the police but no action had been taken by the police on his statement and he filed a complaint before the learned Court of SDJM, Samana.

Learned State Counsel, assisted by the counsel for the complainant, have opposed the petition for anticipatory bail on the ground that injury on the person of the complainant was found to be grievous in nature with sharp-edged weapon. There were four other cases registered against the petitioner and it has been wrongly mentioned in the para 16 of the petition that petitioner is not involved in any other case/FIR of similar nature, whereas FIR No.70 dated 28.05.2020, under Sections 323, 324, 341, 506, 34 IPC has been registered in Police Station City Samana, District Patiala and FIR No.187 dated 27.11.2020, under Sections 323, 341, 506, 148, 149 IPC has also been registered in the same Police Station and these cases are regarding causing of injuries and are similar in nature.

Referring to the present case, it is further submitted that the weapon used by the petitioner in the crime is yet to be recovered. Injuries were caused with a premeditated mind to stop the complainant from enjoying his property in a peaceful manner. Custodial interrogation of the petitioner is necessary. The cross-version of the petitioner was found to be

false. So, no action was taken thereupon.

Heard.

In this case, the occurrence is not denied by the learned counsel for the petitioner. It has been specifically mentioned in para 16 of the petition that the petitioner is not involved in any other case/FIR of similar nature, whereas in the Status Report filed on behalf of the respondent-State, it has been specifically mentioned that two other FIRs were also registered against the petitioner for causing injuries. Thus, it is clear that wrong averments have been mentioned in the petition. Though it has also been brought to the notice of the Court that in both the FIRs, Cancellation Report was prepared, but that is not a ground to say that the petitioner was not at all involved in any other case of similar nature. As per the Medico Legal Report, the injury detail found on the person of the complainant is as under :-

“A spindle incised wound of size 5x1x1 cm present on posterior aspect of left forearm horizontally placed 8 cm from elbow joint underlying subcutaneous tissue and muscles are exposed advice x-ray left forearm, AP and lateral ortho opinion suturing of wound done.”

The weapon used in the crime is also to be recovered. The dispute is regarding demarcation of intervening boundary of the fields of the parties. From the evidence collected, it can be said that the injuries were caused with a sole motive to put pressure upon the complainant to prevent him from enjoying his property. The matter is quite serious. The custodial interrogation of the petitioner is required. Therefore, no ground is made out

to grant concession of anticipatory bail to the petitioner.

Dismissed.

The petitioner is directed to surrender before the concerned Illaqa Magistrate/Duty Magistrate, within one week from the receipt of certified copy of this order. The bail application, if any, moved by the petitioner before the concerned Court, shall be decided within four days.

However, nothing contained herein above shall be construed as an expression of opinion on the merits of the case.

February 15, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.