

CRM-M-4953 of 2023

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

CRM-M-4953 of 2023
Date of decision: 01.02.2023

Sukhman Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Shoryaveer Vashist, Advocate,
for the petitioner.

Mr. Adhiraj Singh, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.270 dated 18.12.2022 under Sections 452, 323, 506, 120-B IPC, registered at Police Station Bhawanigarh, District Sangrur.

Present FIR was registered on the statement of complainant Bharpur Singh son of Teja Singh wherein he stated that he is 65 years old and agriculturist by profession. On 10.12.2022 at about 10:00 a.m. he was taking meals in his house. At that time, petitioner-Sukhman Singh who is his nephew came there and started breaking the main gate of their house. When he asked that why he is doing so, he started saying that their sofas are lying in his house and he had to take them back. At this he had told him that let his son come and after the

CRM-M-4953 of 2023

settlement of Rs.20,000/- he can take back his sofas. At this, petitioner started beating him and also pulled his beard. In the meantime, Bachittar Singh son of Sher Singh who is also his nephew reached at the spot and raised a *lalkara* that complainant be taught a lesson. Thereafter, petitioner along with co-accused entered his house and started beating him. Due to which he had suffered many injuries and he raised a *raul marta-marta*. Thereafter both of them ran away from the spot.

Learned counsel for the petitioner contends that petitioner is innocent and has been falsely implicated in the present case. He further submits that there is delay of eight days in lodging the FIR. Petitioner has been implicated in the present case due to some old enmity between the parties. Complainant is uncle of the petitioner. He further submits that nothing is to be recovered from the petitioner and he is ready and willing to join the investigation.

Per contra, learned State counsel, who appears on receipt of advance notice of the petition, opposes the prayer for grant of anticipatory bail to the petitioner contending that petitioner is specifically named in the FIR and the petitioner is a habitual offender as he is involved in five more cases. Therefore, his custodial interrogation is necessary.

I have heard learned counsel for the parties and perused the record.

Perusal of the FIR shows petitioner along with co-accused gave merciless beating to the complainant, which is corroborated by the

CRM-M-4953 of 2023

video recording produced by the complainant before the Court below.

Moreover, petitioner is a habitual offender as five more cases have been registered against him at different police stations, details of which are as under: -

Sr. No.	FIR No./date	Under Sections	Police Station
1.	85/05.10.2017	61/1/14 of the Excise Act	Bhadson
2.	36/21.02.2019	341, 323, 379-B IPC	Sadar Smana
3.	29/16.03.2019	379-B IPC	Amargarh
4.	47/13.03.2019	379-B IPC	City Samana
5.	39/14.03.2019	379-B/34 IPC	Sadar Nabha

The fact of registration of above FIRs has been concealed by the petitioner, as in the petition it has been mentioned that only there are four more cases against the petitioner, however, no details of the same have been given. It is a well-settled proposition of law that a person who does not approach the Court with clean hands and played fraud with the Court, is not entitled for any relief. Reference in this regard can be made to the judgments in ***Dalip Singh v. State of U.P. and others - JT 2009 (15) SC 201: (2010) 2 SCC 114*** and ***Amar Singh v. Union of India and others, WP(C) No.39/06 decided on 11.05.2011.***

As per law laid down by the Hon'ble Supreme Court in ***State of Madhya Pradesh v. Pradeep Sharma (2014) 2 Supreme Court Cases 171***, power exercisable under Section 438 Cr.P.C. is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his/her liberty.

There are specific allegations against the petitioner that he along with co-accused gave merciless beatings to the complainant. The

CRM-M-4953 of 2023

allegations are serious in nature and he is involved in five more cases. Custodial interrogation of the petitioner may provide information leading to discovery of material facts. Curtailing of his freedom is necessary in order to enable the investigation to proceed without hindrance and to protect witnesses.

Keeping in view the facts and circumstances of the case, role attributed to the petitioner and gravity of offence, petitioner does not deserve the concession of anticipatory bail.

The present petition is accordingly dismissed.

However, anything observed hereinabove shall not be construed as an expression of opinion on the merits of the case.

01.02.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No