

CRM-M-10900-2023

2023:PHHC:075403

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-10900-2023

Date of decision :24.05.2023

MANDEEP SINGH @ BILLA

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Shiv C. Bhola, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

JASJIT SINGH BEDI, J.

This 2nd petition under Section 438 of Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No.432 dated 22.08.2022 registered under Sections 147, 148, 149, 323, 341, 365, 452, 506 IPC (Section 325 IPC added later on) at Police Station City Mandi Dabwali, Sirsa, District Sirsa.

2. The present FIR came to be registered at the instance of Abhinav Kumar son of Sanjay Kumar who stated that they were two brothers. On 20.08.2022 at about 12.00/01.00 PM, he (complainant) and his cousin Aditya went to their fields in their Creta Car. They were digging a borewell for installing a tubewell. Suddenly, Sewak Singh son of Lakshman Singh, Saravjit Singh son of Lakshman Singh, Sewak Singh's son and Jaswinder Singh son of Jaswant Singh attacked them (complainant side). Sewak Singh inflicted an injury on his (complainant's) right hip with a knife. Apart from the aforementioned

accused, Mandeep Singh @ Billa (petitioner) son of Gurjant Singh, Kaptain son of Ranjit Singh, Harsh son of Jagtar Singh and 5-6 other persons who had covered their faces with cloth had also come to the spot holding *Dandas* in their hands. Mandeep Singh @ Billa (petitioner) inflicted an injury on his (complainant's) head with a rod. When he (complainant) fell down, then Kaptain inflicted an injury on his right thigh with a knife. Jaswinder Singh caused an injury on his right hand with a *Danda*. Sewak Singh's son and 5/6 other persons inflicted injuries to him (complainant) with leg blows and with *Dandas*. His brother tried to save him (complainant) but injuries were caused to his brother on the right hand and knee with *Dandas*. Harsh and Kaptain tried to inflict injuries on his brother Aditya on the head but when he raised his hand in self-defence the *Dandas* hits on his (Aditya's) hand. Sewak Singh and Jaswinder Singh lifted him (complainant) put him in their car and went towards Maujgarh saying that they would throw him (complainant) in the canal. In the meantime, his brother Aditya came from behind and stopped the car in front of the car in which he (complainant) was being abducted and raised a hue and cry. As the traffics stopped on the way, his brother pulled him (complainant) out of the car. Thereafter, the assailants fled away from the spot.

3. When the first petition for the grant of anticipatory bail had come up for hearing on 09.12.2022, after hearing detailed arguments, the said petition stood withdrawn as it was apparent that the petitioner had inflicted an injury on the head with a *Danda* which was a grievous injury. Thereafter, the instant petition came to be filed and on

02.03.2023, the counsel for the petitioner was asked to explain as to how a second petition for the grant of anticipatory bail was maintainable without any change in circumstances.

4. The learned counsel for the petitioner while answering the query of the Court has pointed out that as the report under Section 173(2) Cr.P.C. stood submitted against the co-accused, the present petition for the grant of pre-arrest bail was maintainable and the petitioner was entitled to the grant of anticipatory bail.

5. On the other hand, the learned State counsel contends that the second petition for the grant of anticipatory bail was not maintainable without any change in material circumstances. In the instant case, merely because the report under Section 173(2) Cr.P.C. stood submitted against the co-accused was not a fresh ground to consider the prayer for bail of the petitioner once again.

6. I have heard the learned counsel for the parties.

7. Admittedly, a perusal of the FIR would clearly establish that the petitioner is in fact, the main accused having caused grievous injuries on the person of the injured. It was in these circumstances that the first bail application of the petitioner came to be withdrawn after arguments had been addressed on 09.12.2022. The argument raised by the petitioner that because the report under Section 173(2) Cr.P.C. stood submitted against the co-accused of the petitioner would furnish a fresh ground for the filing of the present second petition for the grant of anticipatory bail cannot be accepted. If this argument was to be considered, then a situation would arise wherein every accused would

abscond from justice, await the filing of the report under Section 173(2) Cr.P.C. against the co-accused and then approach the Court with the argument that no case for custodial interrogation was made out as the investigation qua the co-accused stood completed. Therefore, the absconding accused would attempt to obtain benefit out of his own unlawful conduct of absconding.

8. In view of the aforementioned discussion, the present second petition for the grant of anticipatory bail is dismissed as not maintainable.

(JASJIT SINGH BEDI)
JUDGE

24.05.2023
JITESH