

CRM-M-12283-2023 (O&M)

1

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

**CRM-M-12283-2023 (O&M)  
Date of decision: 23.03.2023**

**Baljit Singh**

**.....Petitioner**

**versus**

**State of Punjab**

**.....Respondent**

**CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ  
\*\*\***

Present :- Mr. Deepak Arora, Advocate  
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. Dhawaljeet Dutta, Advocate  
for the complainant.  
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**RAJESH BHARDWAJ, J.**

**CRM-12270-2023**

Prayer in the present application is for addition of Section 307 of IPC in the head note of the petition and also to place on record amended head note.

Notice in the application.

On asking of the Court, Mr. Sandeep Kumar, DAG, Punjab accepts notice on behalf of the respondent-State and pleads no objection if the application is allowed.

In view of the above, application is allowed as prayed for.

Amended head note is taken on record.

CRM-M-12283-2023 (O&amp;M)

2

CRM-M-12283-2023

Petitioner has approached this Court praying for grant of anticipatory bail in case FIR No.160 dated 16.12.2022, under Sections 341, 343, 324, 379, 148, 149 of IPC and Sections 326 & 307 of IPC (added later on), registered at P.S. Dhariwal, District Gurdaspur.

As per facts of the case, the complaint was lodged on the statement of Sandeep Singh. It was alleged that on 14.12.2022, he and Harsimran Singh son of Salwinder Singh were going on motorcycle to Dhariwal from Dadwa Road. The motorcycle was being driven by Harsimran Singh and Salwinder Singh was pillion rider. At about 05:30 PM when they were reached near Fancy Sweet Shop, a Duster car came from the front which was being driven by Satbir Singh son of Gurpal Singh. The said car stopped their motorcycle by coming ahead of it. Satbir Singh was armed with iron pipe, Gurdeep Singh armed with datar, Harpal Singh @ Palla armed with iron pipe, Gurmukh Singh son of Natha Singh armed with iron pipe and along with them, there were some other persons on motorcycle namely, Gurpreet Singh and Baljit Singh (petitioner) who were armed with iron pipe. Satbir Singh raised *lalkara* to catch hold of the complainant and his friend to teach them a lesson. All of them opened attack and started giving blows to the complainant and Harsimran Singh and they fell down from the motorcycle. Thereafter, Baljit Singh gave a blow of the iron pipe on the right knee of the complainant. Thereafter, Baljit Singh gave two repeated blows with his iron pipe on him on his left hand and left side of the head. After giving them serious injuries all of them ran away from there. They were taken to

CRM-M-12283-2023 (O&amp;M)

3

the hospital and got admitted. In this occurrence, Harsimran Singh sustained serious injuries and was referred to the higher centre. The motive was said to be an occurrence which took place about 12 days prior to the present incident when a minor fight of Harsimran Singh took place with the accused persons. Request was made to take legal action. Petitioner apprehending his arrest approached the Court of learned Sessions Judge, Gurdaspur praying for grant of bail. However, after hearing counsel for both the sides, learned Sessions Judge, Gurdaspur declined the same vide his order dated 01.03.2023. Aggrieved by the same, petitioner is before this Court praying for grant of anticipatory bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He submits that initially the FIR was registered for the offence under Section 326 of IPC, however, in a premeditated manner, offence under Section 307 IPC was added only to make the case serious against the petitioner. He has submitted that as per MLR, injury caused by the petitioner does not constitute the offence under Section 307 of IPC as the same was simple injury. He also submits that medical record of the complainant would show that injury No.1, 2, 6 and 7 had been declared grievous. He submits that the petitioner has no criminal antecedents and thus, he deserves to be granted anticipatory bail.

Learned counsel for the complainant has opposed the submissions made by counsel for the petitioner and has submitted that in the attack opened by all the accused, complainant Sandeep Singh and Harsimran Singh suffered injuries. He has submitted that Harsimran

CRM-M-12283-2023 (O&M)

4

Singh suffered in all 07 injuries and as per the opinion of the Medical Board, all the injuries cumulatively were dangerous to the life. He has submitted that the petitioner was armed with iron pipe and he caused injuries to both the injured. He has submitted that Harsimran Singh was given multiple injuries including the head injury and the same would amount to the injuries which were dangerous to life.

Learned State counsel has also opposed the submissions made by counsel for the petitioner. He has submitted that the petitioner was duly armed and has caused injuries to both the injured. He also submits that co-accused are yet to be arrested and the case is pending investigation. He submits that there is no case for the grant of anticipatory bail.

Heard. After hearing counsel for the parties and perusing the record, it is apparent that the petitioner is specifically named in the FIR. He was armed with iron pipe and has caused injuries to both the injured. The injured namely, Harsimran Singh has suffered 07 injuries including the head injury. As per the opinion of the Medical Board, all the injuries together were dangerous to the life.

For the consideration of anticipatory bail, the statutory parameters are given under Section 438(1) Cr.P.C. which reads as under:-

*“Direction for grant of bail to person apprehending arrest:-*

*(1) Where any person has reason to believe that he may be arrested on accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest he shall be released on bail; and that Court may, after taking into consideration, inter alia, the following*

*factors, namely:-*

- (i) the nature and gravity of the accusation;*
- (ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;*
- (iii) the possibility of the applicant to flee from justice; and*
- (iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested,*

*Either reject the application forthwith or issue an interim order for the grant of anticipatory bail.”*

As per the law settled by the Hon'ble Supreme Court, in *Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632*, while granting anticipatory bail, the Court is to maintain a balance between the individual liberty and the interest of society. However, the interest of the society would also prevail upon the right of personal liberty. The relevant part of the judgment is as follows:-

*31. In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala*

*fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the state" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in State v. Captain Jagjit Singh (1962) 3 SCR 622, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.*

The Hon'ble Supreme Court in State Vs. Anil Sharma, (1997)

7SCC 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 fact that the investigation is at threshold, petitioner do not qualify for the grant of anticipatory bail and the same being devoid of any merits, is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

23.03.2023  
m. sharma

( RAJESH BHARDWAJ )  
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No