

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(210) 1. CRM-M-16588-2023 2023:PHHC:56698
Date of Decision: 20.04.2023

Gurinder Singh @ Babba

--Petitioner

Versus

State of Punjab

--Respondent

2. CRM-M-18928-2023

Navroop Singh

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Inder Pal Singh, Advocate for the petitioners.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. Pardeep Kumar, Advocate for the complainant.

RAJESH BHARDWAJ.J (Oral)

This common order will dispose of the aforementioned two petitions filed under Section 438 Cr.P.C seeking the benefit of anticipatory bail to the petitioners in case FIR No.235 dated 23.12.2022 under sections 326, 325, 324, 323, 506, 148, 149 IPC, registered at Police Station, Sadar Tarn Taran, District Tarn Taran.

As per factual matrix, the FIR in question was lodged on the statement made by Nishan Singh son of Gurmej Singh, wherein it was alleged that their house was situated at a distance of about 1 km from the village. On 7.12.2022 he along with his father Gurmej Singh was sitting on chairs outside the house and in the meantime Gurinder Singh @ Baba (petitioner in CRM-M-16588-2023) carrying Datar, Gurvinder Singh @ Saba carrying Datar, Navroop Singh (petitioner in CRM-M-18928-2023) carrying Baseball bat and Kulbir Singh carrying axe came on their moped

and motorcycles. Gurinder Singh @ Baba raised Lalkara to catch hold of Gurmej Singh and Nishan Singh and they should not be left unhurt. Thereafter, Gurinder Singh @ Baba gave blow of his Datar on the right bicep of father of complainant Gurmej Singh. Another blow was given which hit the right side of head of father of complainant. Complainant was also injured in the incident. On their raising noise the accused persons escaped from the spot. Injured were shifted to the hospital and were medically examined.

The FIR was registered and investigation commenced. Apprehending arrest, petitioners approached the court of learned Addl. Sessions Judge, Tarn Taran for grant of bail, however, after hearing the parties, the bail applications of the petitioners were declined vide order dated 22.3.2023 (in case of petitioner Gurinder Singh @ Baba) and vide order dated 1.4.2023 (in case of petitioner Navroop Singh). Aggrieved by the same petitioners have approached this court for grant of anticipatory bail.

Learned counsel for the petitioners has vehemently contended that petitioners have been falsely implicated in the present case. It is submitted that petitioner Gurinder Singh @ Baba is a police official and he was not even present at the time of occurrence. It is submitted that he was seen in the CCTV footage because he arrived at the place of occurrence after the same had taken place. It is further submitted that occurrence took place at about 5.30 PM and petitioner Gurinder Singh @ Baba never participated in the same. He came to the spot just to pacify the matter at about 6 P.M. Counsel submits that Gurinder Singh @ Baba was dragged in this case only being the close relative of the co-accused and being a police

official. It is submitted that though petitioner Gurinder Singh @ Baba has been prosecuted in other cases, however, he has been acquitted in the same. It is further submitted that petitioner Navroop Singh has also been implicated falsely in this case. Counsel submits that as per allegations made petitioner Navroop Singh allegedly gave a Datar blow which hit on the chest and bicep of the father of the complainant namely Gurmej Singh. Counsel submits that a cross-version was also registered on the statement of Sarabjeet Singh @ Saba against Gurmej Singh, Malkeet Singh, Satnam Singh, Nishan Singh, Kewal Singh and Antanpreet Singh etc. vide GD No.023 dated 24.12.2022 under sections 323, 326, 506, 148, 149 IPC at P.S. Sadar Tarn Taran. It is further submitted that there is an unexplained delay of about 16 days in lodging the FIR as the occurrence took place on 7.12.2022, whereas the FIR was lodged on 23.12.2022. It is further submitted that ocular version has not been medically corroborated. Counsel submits that the main dispute of the complainant party is with the co-accused and the petitioners have been implicated being relatives of them.

On the other hand, learned counsel for the complainant has vehemently opposed the submissions made by counsel for petitioners. It is submitted that petitioner Gurinder Singh @ Baba is a police official and he is a habitual offender. It is submitted that besides the present case he has been prosecuted in three other cases i.e. FIR No.91 of 2012 registered under section 307 IPC, FIR No.108 of 2014 registered under Section 304 IPC and FIR No.14 of 2010 registered under Section 365 IPC. It is submitted that delay in lodging the present FIR occurred as the petitioner Gurinder Singh @ Baba is employed in police department and no action was taken by the police under his influence.

Learned State counsel submits that both the injured were medically examined and there are specific allegations against both the petitioners that they were duly armed with weapons and gave blows on the vital parts of the body. As per MLR the blows given by the petitioners resulted in causing grievous injuries to both the injured which attracted the offence under Section 326 IPC. It is also submitted that in all there are 7 accused in this case out of which one has been granted anticipatory bail and two have been granted regular bail. It is submitted that case of both the petitioners is distinguishable from that of the co-accused, who have been granted bail.

I have heard both the sides at length and have gone through the records carefully.

Hon'ble the Supreme Court in ***State represented by CBI Vs. Anil Sharma, (1997) 7 SCC 187*** has 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 suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he 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

CRM-M-16588-2023 & connected petition -5-

themselves in task of disinterring offences would not conduct themselves as offenders.”

The Hon'ble Supreme Court, in **Gurbaksh Singh Sibbia Vs.**

State of Punjab, AIR 1980 SC 1632 has held as under:-

*“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.

In the above said case, the Hon'ble Supreme Court has held that the Court is to draw a balance between the right of liberty of the individual and overall interest of the society. However, overall interest of the society would prevail upon the right of liberty of the individual.

The Hon'ble Apex Court in plethora of judicial precedents has time and again reiterated that while considering the anticipatory bail the Court is to take into consideration the factors like gravity of offence, chances of accused tampering with the evidence and probabilities of fleeing from justice etc. The Court should be circumspect about the impact of its decision on the society as well. The anticipatory bail is an extraordinary discretion which can be exercised in the extraordinary circumstances. Weighing the facts and circumstances of the case on the anvil of law settled, this Court is of the opinion that the petitioner does not qualify for exercising the extraordinary power by this Court in his favour.

Resultantly, both the petitions being devoid of any merit are hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

20.04.2023

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