

102 (02)

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

**CRM-M-18131-2023 (O&M)
Date of decision : 09.10.2023**

Shammi Bhatti

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Pranav Chamoli, Advocate,
for the petitioner.

Mr. Joginder Pal Ratra, Sr. DAG, Punjab.

Mr. Kulwinder Singh, Advocate,
for Mr. Rakesh Kumar, Advocate,
for the complainant.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of pre-arrest bail to the petitioner in FIR No.20 dated 21.02.2023, registered under Section 307 & 34 (Sections 324 & 323 added subsequently) of the Indian Penal Code, 1860 (for short, '*the IPC*'), registered at Police Station Cantt. Ferozepur.

2. Allegations are that on 20.02.2023 at about 11.00 A.M. petitioner along with other co-accused, armed with sharp-edged weapons, attacked the complainant (Kamlesh Rani) and caused her multiple injuries. For brevity, contents of the FIR are reproduced as below:-

“I INSP/SHO along with other policemen have arrived back at police station after verifying the video of Baaj Wala Chowk Ferozepur Cantt vide DDR No. 54 and it has been verified that a lady namely Kamlesh Rani wife of Bhola Singh resident of Village Bajidpur has been caused injuries with kirpan with an intention to kill by 4 persons, who came on two motorcycles one splendor and one bullet on 20/02/2023 at about 11:30 AM. Regarding which a ruqa bearing No. 259 dated 20/02/2023 pertaining to Kamlesh Rani wife of Bhola Singh resident of Bajidpur Police Station Kulgari has been received at Police Station regarding referring her to Guru Gobind Singh Medical College, Faridkot. Therefore, ASI Baljit Singh 1564/FZR was sent to Guru Gobind Singh Medical College, Faridkot to record the statement of the injured but the injured was not fit to give statement regarding which a DDR No. 48 entered on arriving back at Police Station. Now, I have checked my mobile phone and found one video wherein the injured Kamlesh Rani gave statement in Civil Hospital, Ferozepur that Saroj, Bhatti Shammi, Ajay and one unidentified person have caused her injuries. On verification, it has been found that Ajay and Saroj are residents of village Bajidpur and Shammi Bhatti Singh resident of Nava Purba Police Station Kulgari. The identity of the unknown person is not yet established. As the above said accused persons have caused injuries mercilessly with an intention to kill. Therefore, offence under section 307/34 IPC is found to be made out. Resultantly the above said FIR is registered against Saroj, Ajay residents of Village Bajidpur, Shammi Bhatti resident of Nava Purba Police Station Kulgari and one unidentified person for the above said offences and a copy of the FIR along with related documents is handed over to ASI Baljit Singh 1564/FZR for investigation. Special reports have been prepared and being sent through SC Karamjit Singh 1397/FZR to present it before Duty

Magistrate and Senior Officers. PCR is being informed through wireless.

3. Learned counsel contends that in terms of the order dated 02.05.2023, petitioner has already joined investigation and his custodial interrogation is not required. Further contends that in the video clip on the basis of which present FIR was registered, complainant named Ajay, Saroj (petitioner) and Shammi Bhatti along with one unknown person as perpetrators of the crime. However, in the statement recorded by the police on 21.02.2023, complainant named Aman, Vishal, Ajay and son of Shammi Bhatti; thus, there is contradiction in both versions.

4. Learned State counsel, while opposing the prayer, submitted that petitioner along with other co-accused attacked the complainant and caused multiple injuries to her. As per the MLR dated 20.02.2023, she suffered 13 injuries and on account of which, two fingers of her right hand were chopped off.

5. Learned counsel for the complainant also submits that the petitioner along with other co-accused assaulted the complainant and caused grievous injuries; hence does not deserve the concession of pre-arrest bail.

6. Heard learned counsel for the parties and perused the paper-book.

7. It transpires that Coordinate Bench, on 02.05.2023, granted interim pre-arrest bail to petitioner and relevant part of the order reads as under:-

“1. Prayer in the present petition, filed under Section 438 of the Code of Criminal Procedure, is for grant of anticipatory bail to the petitioner in case FIR No.20, dated 21.02.2023 (Annexure P-1), registered under Sections 307 and 34 of the Indian Penal Code, 1860, (Sections 324, 323 of IPC added later on vide General Diary No.3, dated 22.02.2023) at Police Station Cantt Ferozepur, District Ferozepur (Punjab).

2. Upon issuance of notice, status report by way of affidavit of Surinder Pal, Deputy Superintendent of Police (City) Ferozepur on behalf of respondent has been filed, which is already on record.

3. Succinctly, the present FIR was registered against four persons, namely Ajay, Saroj, Shammi Bhatti and an unknown person, with the allegations that on 20.02.2023 at about 11:00 A.M., when the complainant, namely Kamlesh Rani w/o Bhola Singh was standing at the Bus Stop, Baaj Wala Chowk, Ferozepur Cantt., near tea stall then the accused persons came on two motorcycles and attacked the complainant with kirpan and khanda, with an intention to kill her and caused multiple injuries on her person. Consequent thereto, the complainant fell unconscious and was admitted at the Civil Hospital, Ferozepur, by people. Thereafter, the complainant's brother reached the Civil Hospital, Ferozepur and took her to the Medical College, Faridkot, wherein the complainant was medically treated. It is stated that the motive behind the aforesaid incident was that the complainant had filed a case against her husband for maintenance and for getting her share out of her in-laws' land.

4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. It is submitted that there is no direct or indirect evidence which connects the petitioner with the alleged offence. Learned counsel for the petitioner submits that the complainant did not name the petitioner in her statement dated 21.02.2023. Learned counsel for the petitioner has referred to status report dated 26.04.2023, wherein it is stated as under:-

“However the doctor granted permission to the police for recording the statement of injured on 21.02.2023 and thereafter the statement of the injured has been recorded in which the injured has not named the present petitioner. However on the basis of the said statement, G.D. no.003 dated 22.02.2023 has been recorded and offence u/s 324,323 IPC has been added in the FIR and Aman son of Rachhpal, Vishal son of Sukhchain and son of Shammi Bhatti has been

nominated as accused in the said FIR. However the matter is still under investigation as to whether the present petitioner and Saroj have played any role in the occurrence as at the first instance, the injured/complainant herself specifically named the present petitioner and Saroj having participated in the occurrence whereas on the second statement recorded in the GGS Medical College and Hospital, Faridkot, she has not named the present petitioner and Saroj.”

5. *It is stated that co-accused namely Saroj @ Saroj Kumar @ Jai Poul who is similarly circumstanced as the petitioner, has already been granted the concession of interim bail vide order dated 18.04.2023 passed by this Court in CRM-M-14741-2023. Learned counsel next submits that the bail application moved by the petitioner under Section 438 of the Criminal Procedure Code, for grant of anticipatory bail has wrongly been dismissed by learned Additional Sessions Judge, Ferozepur, vide its order dated 13.03.2023. It is also submitted that the petitioner is ready and willing to join investigation as and when required by the Investigating Agency or as directed by this Court or trial Court.*

6. *Learned counsel appearing on behalf of the State opposes the petitioner's plea for bail on the ground of seriousness, however it is not disputed that the co-accused (Saroj @ Saroj Kumar @ Jai Poul) has already been granted the concession of interim bail vide order dated 18.04.2023 passed by this Court.*

7. *List on 17.07.2023.*

8. *Without commenting anything on the merits of the case, petitioner is directed to join the investigation as and when directed by the investigation agency. In the event of arrest of petitioner, he shall be released on ad interim bail to the satisfaction of the Investigating/ Arresting Officer and the petitioner shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C.”*

8. It is also not in dispute that above orders have been extended from time to time and continuing till date.

9. As per the MLR dated 20.02.2023, complainant, who is a woman, suffered as many as 13 injuries and for reference, the same read as under:-

“Sr. No.	<i>Injuries</i>	<i>Marked</i>	<i>Injury Number</i>
1	LACERATE WOUND MEASURING 4CM X 1.5CM PRESENT OVER BACK OF LEFT FOREARM, 3.5CM ABOVE LEFT WRIST JOINT. UNDERLYING SOFT TISSUE VISIBLE, FRESH BLEEDING ALONG WITH CLOTTED BLOOD PRESENT.	Yes	8
2	INCISED WOUND MEASURING 5CM X 0.2CM PRESENT HORIZONTALLY OVER LEFT SIDE OF HEAD, 7CM ABOVE TOP OF LEFT EAR. FRESH BLEEDING ALONG WITH CLOTTED BLOOD PRESENT.	Yes	1
3	INCISED WOUND MEASURING 5.2CM X 0.2CM PRESENT HORIZONTALLY OVER LEFT SIDE OF HEAD, 4 CM BEHIND INJURY NUMBER 1 AND 2 CM MEDIAL TO INJURY NUMBER 2. FRESH BLEEDING ALONG WITH CLOTTED BLOOD PRESENT.	Yes	3
4	INCISED WOUND MEASURING 5.2 CM X 0.2CM PRESENT HORIZONTALLY OVER LEFT SIDE OF HEAD, 3.5CM BEHIND INJURY NUMBER 2. FRESH BLEEDING ALONG WITH CLOTTED BLOOD PRESENT.	Yes	4
5	INCISED WOUND MEASURING 3CM X 0.2CM PRESENT OVER LEFT EAR PINNA, STARTING FROM TOP OF LEFT EAR. FRESH BLEEDING ALONG WITH CLOTTED BLOOD PRESENT.	Yes	5
6	CRUSHED LACERATED WOUND MEASURING 9CM X 7CM PRESENT OVER BACK OF LEFT HAND, 3CM BELOW LEFT WRIST JOINT. UNDERLYING SOFT TISSUE, MUSCLES AND TENDON VISIBLE AND ARE CRUSHED. FRESH BLEEDING ALONG WITH CLOTTED BLOOD PRESENT.	Yes	7
7	INCISED WOUND MEASURING 16CM X 9CM PRESENT OVER RIGHT HAND, STARTING FROM BASE OF RIGHT LITTLE FINGER OVER FRONT OF HAND TO BACK OF THE HAND 4CM BELOW RIGHT WRIST. UNDERLYING SOFT TISSUE,MUSCLES AND TENDON VISIBLE AND ARE CUT. FRESH BLEEDING ALONG WITH CLOTTED BLOOD PRESENT.	Yes	10
8	INCISED WOUND MEASURING 2.6CM X 0.3CM PRESENT OVER FRONT OF RIGHT HAND, OVER	Yes	11

	<i>RIGHT LITTLE FINGER, 2CM ABOVE TIP OF RIGHT LITTLE FINGER. FRESH BLEEDING ALONG WITH CLOTTED BLOOD PRESENT.</i>		
9	<i>INCISED WOUND MEASURING 5.5CM X 1CM PRESENT OVER FRONT OF LEFT SIDE OF UPPER ABDOMEN, 6CM LATERAL TO MIDLINE AND 30CM ABOVE LEFT ANTERIOR SUPERIOR ILIAC SPINE. UNDERLYING SOFT TISSUE VISIBLE. FRESH BLEEDING ALONG WITH CLOTTED BLOOD PRESENT. CORRESPONDING TEAR ON CLOTHES PRESENT.</i>	Yes	9
10	<i>INCISED WOUND MEASURING 5.3CM X 0.2CM PRESENT HORIZONTALLY OVER LEFT SIDE OF HEAD, 5CM BEHIND INJURY NUMBER 1. FRESH BLEEDING ALONG WITH CLOTTED BLOOD PRESENT</i>	Yes	2
11	<i>INCISED WOUND MEASURING 8CM X 4CM PRESENT OVER BACK OF LEFT ARM, 6CM ABOVE LEFT ELBOW JOINT. UNDERLYING SOFT TISSUE VISIBLE. FRESH BLEEDING ALONG WITH CLOTTED BLOOD PRESENT.</i>	Yes	6
12	<i>AMPUTATED RIGHT RING FINGER FROM 2.5CM BELOW BASE OF THE FINGER. UNDERLYING SOFT TISSUE, MUSCLE, TENDON AND BONE VISIBLE AND CUT. INFILTRATION OF BLOOD PRESENT AT FRACTURE ENDS. FRESH BLEEDING ALONG WITH CLOTTED BLOOD PRESENT.</i>	Yes	12
13	<i>AMPUTATED RIGHT MIDDLE FINGER FROM 2CM BELOW BASE OF THE FINGER. UNDERLYING SOFT TISSUE, MUSCLE, TENDON AND BONE VISIBLE AND CUT. INFILTRATION OF BLOOD PRESENT AT FRACTURE ENDS. FRESH BLEEDING ALONG WITH CLOTTED BLOOD PRESENT.”</i>	Yes	13

10. Perusal of the above extract reveals that complainant was mercilessly assaulted inasmuch as the injury Nos.1, 2, 3, 4, 5, 6, 9, 10, 11, 12 & 13 are stated to be caused by sharp-edged weapon(s).

11. Keeping in view the gravity of offence, this Court does not find any ground to accept the prayer of petitioner for pre-arrest bail. Moreover, the assertion raised by learned counsel for the petitioner that complainant did not name him on 21.02.2023 would be a matter of investigation by the Police.
12. In such a scenario, this Court is of the opinion that to find out the truth, custodial interrogation of the petitioner would be the only way out.
13. As a result thereof, there is no option except to dismiss the petition.
14. Ordered accordingly.
15. Needless to say that interim protection granted to the petitioner vide order dated 02.05.2023; extended subsequently, shall come to an end.
16. Also clarified that observations made above shall not be construed as an expression of opinion on merits of the controversy, in any manner.
17. Pending application(s), if any, shall also stand disposed off.

09.10.2023

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(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking / reasoned :</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable :</i>	<i>Yes</i>	<i>No</i>