

CRM-M-18463 of 2023

2023:PHHC:052987

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

CRM-M-18463 of 2023

Date of decision: 17.04.2023

Deepak Kumar @ Gopi

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Ms. Isha Goyal, Advocate,
for the petitioner.

Mr. Adhiraj Singh, AAG, Punjab.

NAMIT KUMAR, J.

This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.318 dated 25.10.2017 under Sections 323, 324, 506, 34 IPC and lateron added Section 326 IPC, registered at Police Station A Division, District Amritsar.

Present FIR was registered on the statement of complainant-Rahul Chorpa against the petitioner and co-accused alleging therein that accused Amolakdeep Singh @ alias Molak gave two *dang* blows on complainant Rahul i.e one on waist and other on right arm bicep. Petitioner-Deepak Kumar @ Gopi gave *datar* blow on head of complainant Rahul. On the basis of statement of complainant

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present case was registered. Injury under Sections 324, 326 IPC is attributed to petitioner-Deepak Kumar alias Gopi.

Learned counsel for the petitioner contended that petitioner is innocent and has been falsely implicated in the present case. He further submitted that it is a case of version and cross-version. He further submitted that since the parties have compromised the matter, no useful purpose would be served by sending the petitioner in custody. Therefore, petitioner may be granted concession of anticipatory bail.

Per contra, learned State counsel, who has appeared on receipt of advance copy of the paperbook, submitted that petitioner does not deserve the concession of anticipatory bail as there are serious allegations against him.

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

There are specific allegations against the petitioner that he gave *datar* blow on the head of the complainant and injury under Sections 324, 326 IPC has been attributed to him. So far as contention of learned counsel for the petitioner that matter has been compromised between the parties is concerned, the same is untenable as petitions filed by both the sides for quashing the FIR in question and cross-version case have been dismissed as withdrawn.

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

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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 caused injuries to the complainant. The allegations are serious in nature and weapon of offence is yet to be recovered. 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.

17.04.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No