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

214-2

CRM-M-20022-2023

Date of decision : 03.10.2023

Shiv Dutt @ Shivdat Ram

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. S.S. Brar, Advocate
for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

PANKAJ JAIN, J. (Oral)

1. While issuing notice of motion on 24.04.2023, following order was passed:-

“Petitioner (Shiv Dutt @ Shivdat Ram) has filed the present petition under Section 438 of the Code of Criminal Procedure seeking grant of anticipatory bail in case FIR No.3 dated 19.01.2023, under Sections 323, 341, 458 read with Section 34 of the Indian Penal Code, registered at Police Station Khuhi Khera, District Fazilka, Punjab.

2. Succinctly, the aforesaid FIR was registered on the statement of complainant, namely Surjeet Singh s/o Arjan Singh, wherein it was stated that the complainant is a labourer by profession and his father has already expired. He and one Surinder Kumar @ Saida s/o Banwari Lal used to work as labourers together and the latter used to keep the whole amount of labour charges. In this way, the

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complainant had to take Rs.5,000/- from the said Surinder Kumar @ Saida, however, when the complainant went to Surinder Kumar @ Saida to collect his share of the labour charges, Surinder Kumar @ Saida replied that he will pay the money within one or two days. Thereafter, on 13.01.2023 at about 9:30 P.M., when the complainant was present at his house, he heard some noises from outside and he went out in the street, whereupon he noticed that Surinder Kumar @ Saida armed with kappa, Shiv Dutt @ Maani empty handed, Amandeep @ Billa armed with sota and Kuldeep Kumar armed with an iron rod were standing in the street and on seeing the complainant, Kuldeep Kumar raised lalkara stating that the complainant should be taught a lesson for demanding money by visiting our house. All of the aforesaid persons had consumed liquor and they scuffled with the complainant; Amandeep @ Billa gave a dang blow which hit the right knee of complainant, however, he somehow managed to rescue himself from the clutches of accused and entered his house but all the assailants waylaid him and Shiv Dutt @ Mahni caught hold of him from his arms and Surinder Kumar @ Saida gave a kappa blow from sharp side, which hit on the head of complainant, due to which, he fell unconscious. When the complainant regained his consciousness, he came to know that all the assailants had ran away from the spot along with their respective weapons. Thereafter, complainant's brother, namely Shankar Lal, arranged a conveyance and got the complainant admitted in Civil Hospital, Fazilka, however, due to the grievous injury in his head, the doctor referred

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him to the G.G.S. Medical College, Faridkot, where he was medically treated. Hence, the present FIR was got lodged.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present FIR No.3 dated 19.01.2023 at the behest of complainant, namely Surjeet Singh s/o Arjan Singh. It is further submitted that the petitioner has been roped in this case only to pressurize co-accused, namely Surinder Singh @ Saida, who is the brother of petitioner. It is further submitted that no injury has been attributed to the petitioner in the instant case. Learned counsel states that there is no dispute between the petitioner and complainant and the petitioner has no connection with the alleged money, which is stated to be taken by the complainant from co-accused Surinder Singh @ Saida (petitioner's brother). It is contended that there is an inordinate delay of seven days in lodging of the present FIR, which clearly shows that the prosecution story is an after thought. Even otherwise, as per the Medico Legal Report of the complainant, the injuries are stated to be imparted by blunt weapons, however, as per the complainant, the sharp edged weapons were allegedly used in the scuffle and this in itself creates a serious doubt on the story of prosecution.

4. Learned counsel for the petitioner states that the anticipatory bail application moved by the petitioner before the Court of Sessions Judge, Fazilka, has wrongly been dismissed, vide order dated 13.02.2023 (Annexure P-2). Learned counsel submits that the petitioner is ready and willing to join the investigation as and when required by the

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Investigating Agency or as directed by this Court/trial Court.

5. Notice of motion.

6. At the asking of Court, Mr. Subhash Godara, Additional Advocate General, Punjab, who is present in Court, accepts notice on behalf of the respondent/State. He prays for an accommodation to seek instructions and file status report in the matter.

7. List on 18.07.2023.

8. Without commenting anything on the merits of the case, petitioner is directed to join the investigation as and when directed by the investigating 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) of the Code of Criminal Procedure.”

2. Today, learned State counsel, on instructions from ASI Gurman Singh, has stated that pursuant to the order dated 24.04.2023, the petitioner has joined investigation and is no longer required for custodial interrogation.

3. In view of above, the interim order dated 24.04.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

4. This order should not be treated as "blanket" order. It will not be read granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

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5. This order does not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the charges against the petitioner.
6. The petitioner shall be deemed to be in custody for the purpose of Section 27 of the Evidence Act, 1872 in regard to a discovery of facts made in pursuance of information supplied by the petitioner in case the occasion arises.
7. It will be open to the police or the investigating agency to move this court for a direction under Section 439 (2) Cr.P.C. to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.
8. Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.
9. Disposed off accordingly.

(PANKAJ JAIN)
JUDGE

03.10.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No