

CRM-M-19278 of 2023

2023:PHHC:056581

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

CRM-M-19278 of 2023

Date of decision: 20.04.2023

Varinderjeet Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Mohd. Salim, Advocate,
for the petitioner.

Mr. Adhiraj Singh, AAG, Punjab.

NAMIT KUMAR, J.

1. This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.202 dated 11.09.2022 under Sections 323, 324, 341, 34 IPC and lateron added Sections 325, 326 IPC, registered at Police Station Bhawanigarh, District Sangrur.

2. Present FIR has been registered on the complaint of complainant-Amandeep Singh stating therein that he has been plying taxi make Tavera. About 2/3 months back, Karamjeet Singh son of Keso had sent his taxi in his relations and for which Karamjeet Singh had to pay fare to the complainant. However, Karamjeet Singh had not paid fare and he was avoiding the payment on pretext or the other. On 10.09.2022 at about 8.00 p.m. complainant Amandeep Singh received call on his mobile phone 93896-50008 from the mobile phone of Karamjeet Singh bearing no.94652-14513 and Karamjeet Singh had

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called complainant at drain bridge of his village. On that complainant Amandeep Singh had visited that place. At that place, Karamjeet Singh along with petitioner-Varinderjeet Singh and Harinderpal Singh was already present. Karamjeet Singh was armed with *Gandasa*. Varinderjeet Singh was armed with *Kirpan* and Harinderpal Singh was armed with stick. Karamjeet Singh exhorted that complainant be caught hold and he be taught lesson. Thereafter, Karamjeet Singh gave *Gandasa* blow on the forehead of complainant Amandeep Singh. **Petitioner-Vikramjeet Singh gave *Kirpan* blow on the left leg of complainant Amandeep Singh.** Complainant Amandeep Singh fell down. Karamjeet Singh then gave second blow with *Gandasa* towards Amandeep Singh and Amandeep Singh raised his right arm in order to save himself and that blow struck on his right elbow. Thereafter all the three assailants, while giving injuries to Amandeep Singh, took him in the field of Harinderpal Singh, near the canal. Harinderpal Singh gave blows with his stick on the person of Amandeep Singh. **Petitioner-Varinderjeet Singh gave blow with his *kirpan* on the right leg of complainant Amandeep Singh and thereafter they all the three assailants kept on giving blows with their respective weapons on the person of complainant, who was lying on the ground.** Complainant was bleeding profusely and on seeing the serious condition of complainant, all the three assailants fled away from the spot along with their respective weapons. Complainant informed his wife through phone.

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3. Learned counsel for the petitioner contended that petitioner is innocent and has been falsely implicated in the present case as he has not committed any offence and he was not present at the alleged place of occurrence. He further submitted that petitioner is not involved in any other case and no recovery is to be effected from the petitioner and his custodial interrogation is not required. He further submitted that petitioner is ready and willing to join the investigation.

4. Per contra, learned State counsel, who appears on receipt of advance copy of the paperbook, has vehemently opposed the prayer for grant of anticipatory bail to the petitioner. He submitted that there are specific allegations against the petitioner. He further submitted that except instant FIR, one more case bearing FIR No.217 dated 08.10.2022 under Sections 325, 341, 323 IPC is pending against the petitioner at Police Station Bhawanigarh, District Sangrur. He submitted that petitioner is a habitual offender, therefore, he does not deserve the concession of anticipatory bail.

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

6. Petitioner is alleged to have given multiple *kirpan* blows on the person of the complainant thereby causing grievous injuries to him. Besides this, petitioner has concealed the fact of his involvement in another case bearing FIR No.217 dated 08.10.2022 under Sections 325, 341, 323 IPC registered at Police Station Bhawanigarh, District Sangrur. It is a well-settled proposition of law that a person who does not approach the Court with clean hands and played fraud with the Court, is

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not entitled for any relief. Reference in this regard can be made to the judgments in ***Dalip Singh v. State of U.P. and others - JT 2009 (15) SC 201: (2010) 2 SCC 114*** and ***Amar Singh v. Union of India and others, WP(C) No.39/06 decided on 11.05.2011.***

7. 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 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.

8. In ***Bal Krishan Fauzdar v. State of Haryana 2018 (1) RCR Criminal 789***, it is held by a Co-ordinate Bench of this Court in para No. 8 as under: -

“.....It is well settled that custodial interrogation is more elicitation oriented since a person, who is couched in comparative safety of pre-arrest bail would certainly not disclose all the facts within his knowledge which would be inculpatory for him. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called for.”

9. Reliance can be placed upon the Hon'ble Supreme Court dictum passed in ***Prem Shankar Prasad v. The State of Bihar and another, 2021(4) RCR (Crl.) 598*** and ***Anil Kumar Singh v. High Court of Judicature at Patna through its Registrar General and***

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another, (2020)19 Supreme Court Cases 364 whereby the Hon'ble Apex Court had denied the concession of anticipatory bail in view of the gravity of offences and the conduct of the petitioner.

10. The allegations are serious in nature. 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.

11. In view of the facts and circumstances of the case, I am of the considered view that petitioner cannot prima facie be said to have been falsely enroped in the crime and his custodial interrogation is necessary in the case and that petitioner is likely to abscond and misuse his liberty and does not deserve grant of anticipatory bail.

12. In view of the above, the petition is dismissed.

13. However, nothing observed hereinabove shall be construed as an expression of opinion on the merits of the case.

20.04.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No