

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-31804 of 2022(O&M)

Date of Decision: 26.05.2023

Ashiqali

...Petitioner

Versus

State of Punjab

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. A.S. Manaise, Advocate
For the petitioner.

Mr. C.L. Pawar, Addl. AG Punjab.

KARAMJIT SINGH, J.

1. The present petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case having FIR No. 25 dated 12.04.2022, registered under Sections 326, 324, 452, 323, 148 and 149 IPC at Police Station Bhaini Main Khan, District Gurdaspur.
2. The allegations in nutshell are that on 02.04.2022 petitioner armed with *datar*, co-accused Mam Hussain armed with handle of spade, Farman Ali armed with wooden *danda*, Liyaqat Ali armed with iron rod accompanied with 3-4 unknown persons trespassed into the house of Suddam Hussain and petitioner gave *datar* blow on right leg of the complainant while Mam Hussain gave blow of handle of spade on his thigh while Farman Ali gave *danda* blow on his arm and Liyaqat Ali gave blow of iron rod on his left leg while other 3-4 unknown persons gave kick blows to the complainant.

3. This Court vide order dated 25.07.2022 granted interim bail to the petitioner with direction to join the investigation.

4. Today, the counsel for the petitioner apprised the Court that in compliance of the aforesaid order the petitioner has joined the investigation with the police. The counsel for the petitioner further submits that the petitioner has been falsely implicated in this case by the complainant who is husband of his real sister and matrimonial dispute is going on between them. The counsel for the petitioner further submits that as per the medical record the injury attributed to the petitioner, which has been declared grievous in nature, is found to be a superficial injury that too on non vital part of the body of complainant.

5. The State counsel has produced affidavit of Dr. Harjasbhajnik Singh, Senior Medical Officer, CHC Bhaini Miakhan, District Gurdaspur along with x-ray report, Annexure R-1 and MLR Annexure R-2 which are taken on record.

6. The State counsel, on instructions of ASI Subhash Raj, submits that petitioner has joined the investigation with the police and recovery of *datar* stand effected and petitioner is not required for any further investigation or custodial interrogation.

7. Even as per x-ray report Annexure R-1 only superficial cut of 0.3 mm was found on right tibia of the complainant. It is a debatable point as to whether the said injury is to be considered as a grievous injury as per the provisions of Section 320 IPC. The recovery of the weapon stated to be used by the petitioner in commission of crime is already effected. Further, the petitioner is not required by the police for the purpose of further investigation.

8. Thus, without commenting on the merits of the case, the present petition is allowed and interim order dated 25.07.2022 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

26.05.2023
Jiten

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No