

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

CRM-M-33014-2023

Date of Reserve:20.09.2023

Date of Decision:25.09.2023

Vishal @ Vishal Dubey

...Petitioner

Vs.

State of Punjab and Anr.

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. Fatehjeet Singh, Advocate
for the petitioner.

Mr. Mohinder Singh Joshi, AAG, Punjab.

Mr. Sachin Kalia, Advocate
for the complainant.

N.S.Shekhawat J.

1. The petitioner has filed the present petition under Section 438 Cr. PC with a prayer to grant of anticipatory bail in case FIR No.66 dated 20.05.2021, under Sections 307,341,323,324,148,149,201 of IPC registered at Police Station Bhargo Camp, District Jalandhar (Annexure P-1).

2. The FIR in the present case was registered on the basis of the statement made by Tarzan, complainant, who alleged that at about 09:00 P.M on 18.05.2021, he had come to Adda Bhargo Camp, Jalandhar to take money, at the instance of Raman. While he was waiting for Raman, two cars i.e. Indigo and Swift came at the place of occurrence. Mukul armed with Kirpan, Johny armed with datar, Sham Murari @Kuddu armed with datar, Lucky armed with hockey, Vicky armed with hockey, Vishal Dubey armed with baseball bat, Shiva armed with baseball bat, Gopi armed with baseball bat, Lovepreet armed with baseball bat, Raman armed with iron rod, Laksh Verma armed with datar

along with unidentified persons alighted from the said cars. Raman exhorted that Tarzan should not be spared and should be killed. All the assailants started beating the complainant. Mukul caused an injury on the left side of head of the complainant with a Kirpan, Gopi and Laksh caused injuries on the left ankle and right leg of the complainant with their respective weapons. Complainant tried to run away from there, but he was caught by the assailants. In the meantime, Binder and Seel, maternal uncle of Binder came there and caught hold of the complainant. Vicky and Lucky, caused injuries on the knee of the right leg of the complainant with hockey. Ultimately, complainant fell down. Sham Murari @ Kuddu gave a datar blow on the head of the complainant, but the complainant raised his hand to save himself and the datar blow hit on the left finger and ring finger of his right hand. The complainant raised the noise to save him and his friends Sukhdev and Soma were reached there and they save the complainant with the help of other persons.

3. Learned counsel for the petitioner contends that the FIR in the present case has been registered after a long delay of 02 days and the petitioner has been falsely nominated as an accused in the present case. As per learned counsel, no offence under Section 307 IPC is made out, as the injury on the head of the victim was declared simple in nature. Learned counsel further contends that the petitioner was attacked by certain persons and he had received multiple injuries and on his statement one FIR No.15 dated 31.01.2021 under Sections 307, 120-B, 148, 149, 323, 324, 325, 326, 201 of IPC was registered at Police Station Basti Bawa Khel, District Jalandhar against some gangsters. The petitioner had suffered serious injury on his hand in the said incident and the petitioner was not medically fit to participate in the present occurrence. Learned

counsel further contends that two co-accused have already been granted the concession of anticipatory bail by this Court and the petitioner is also entitled to be released on anticipatory bail.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that the petitioner and other co-accused had caused serious injuries to the complainant in the present case. Apart from that, the present petitioner is habitual offender and the following cases were registered against him:-

Sr.No.	FIR No. and Dated	Under Section	Police Station
1.	FIR No.5 and Dated 07.01.2021	U/s 323, 452,160,148, 149,427,506 of IPC	Division No.1, Jalandhar
2.	FIR No.87 and Dated 08.07.2022	U/s 21,29 of NDPS Act	Division No.1, Jalandhar
3.	FIR No.152 and Dated 16.11.2020	U/s 323, 341, 326,201,148, 149 of IPC	Division No.2, Jalandhar
4.	FIR No.66 and Dated 25.05.2021	U/s 307,324,323,148,149,341 of IPC	Bhargo Camp, Jalandhar
5.	FIR No.85 and Dated 01.05.2022	U/s 379-B, 341, 427,148,149 of IPC	Basti Bawa Khel, Jalandhar
6.	FIR No.279 and Dated 03.09.2020	U/s 323,324,341,34 of IPC	Basti Bawa Khel, Jalandhar
7.	FIR No.212 and Dated 27.07.2020	U/s 323, 341, 148,149, 120-B,188 of IPC	Basti Bawa Khel, Jalandhar

5. Learned State counsel further submits that in FIR No.279 dated 03.09.2020 registered under Sections 323,324,341,34 of IPC, Police Station Basti Bawa Khel, the petitioner has been declared to be a proclaimed offender.

Learned State counsel further contends that even in the present case, the petitioner is shown to be armed with a baseball bat and the recovery of the weapon of the offence is yet to be effected from him. Learned State counsel further submits that serious injuries were caused by the petitioner and his co-accused to the complainant in the present case.

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

7. From the list of the above mentioned cases, it is evident that the petitioner is a habitual offender and is involved in similar cases, which is apparent from the above referred FIRs. Apart from that, the present petitioner was declared as a proclaimed offender in case FIR No.279 dated 03.09.2020 registered under Sections 323,324,341,34 of IPC, Police Station Basti Bawa Khel. Even in the present case, the petitioner along with his co-accused came at the spot, duly armed and caused serious injuries on the person of the complainant. Apart from that, the weapon of the offence i.e. baseball bat is yet to be recovered from the present petitioner and his custodial interrogation is required in the present case.

8. Thus, finding no substance, the present petition is ordered to be dismissed.

9. In fact, the findings have been recorded in the present order, only for the disposal of the present bail application and nothing stated herein shall be construed as an expression of opinion on the merits of the case.

(N.S.SHEKHAWAT)
JUDGE

25.09.2023
hitesh

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