

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

CRM-M-35013-2023 (O&M)

Date of Decision:21.07.2023

Sunil Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Gagandeep Singh Simble, Advocate for the petitioner.

Mr. Jaswinder Singh Arora, DAG, Punjab.

HARSIMRAN SINGH SETHI J.(Oral)

1. Present petition has been filed under Section 438 Cr.P.C for the grant of anticipatory bail to the petitioner in respect of FIR No.56 dated 09.05.2023 under Sections 323, 324, 506, 148 and 149 IPC (Sections 325 and 326 IPC added later on) registered at Police Station Dera Baba Nanak, Police District Batala, District Gurdaspur.

2. Learned counsel for the petitioner argues that in the present case the allegations which are attributed to the petitioner under Section 325 IPC which is a bailable offence and therefore, as the petitioner is ready and willing to join the investigation and cooperate with the same, the petitioner be granted the concession of anticipatory bail especially in view of the fact that as per the allegation, the injuries are self inflicted which can be seen from the report of the doctor as stated in the MLR.

3. The learned State counsel submits that in the present case, the

petitioner and his brothers are co-accused and it is alleged that they have inflicted the injuries upon the victim and keeping in view injuries suffered by the victim, Section 326 IPC has also been invoked. Learned State counsel further submits that as of now the weapons are to be recovered and granting the concession of anticipatory bail to the petitioner at this stage will hamper the investigation and even the one of the co-accused is yet to be arrested and therefore prayer of the petitioner for grant of anticipatory bail may kindly be declined.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. A bare perusal of the FIR would show that in the present case apart from Section 325 and 326 IPC, Sections 148 and 149 of the IPC have also been invoked. Once section 148 and 149 of IPC have been invoked qua unlawful assembly merely that the petitioner is being attributed an injury which results in invoking Section 325 IPC, the prayer so as to grant him bail cannot be accepted as the individual role is not to be seen, once the victim has suffered grievous injuries and Sections 326 of IPC has been invoked and one of the co-accused is also yet to be arrested, the grant of bail will hamper the investigation as the weapon attributed to the petitioner is yet to be recovered.

6. The Hon'ble Supreme Court in the case of ***Kumer Singh Versus State of Rajasthan & another in Criminal Appeal Nos. 572 and 573 of 2021 decided on 20.07.2021*** has held as under:-

“The submission on behalf of the accused that the accused were alleged to have been armed with lathis and therefore they were released on bail is concerned, at the outset, it is required to be noted that all the accused are charged for the offences punishable under

Sections 302 and 307 read with Section 149 of the IPC. At this stage, the individual role of the accused is not required to be considered when they are alleged to have been the part of the unlawful assembly. There were 26 injuries found on the dead body of the deceased and 11 injuries on the injured Vikram Singh by blunt and sharp weapons. Therefore, merely because they were armed with lathis cannot be a ground to release them on bail, in the facts and circumstances of the case, more particularly when they are charged for the offences punishable under Sections 302 and 307 read with Section 149 of the IPC as well as Sections 147 and 148 of the IPC. “

7. Keeping in view the facts and circumstances which have brought on record in the present case, coupled with the settled principle of law which applied in the facts and circumstances of the case, no ground is made out to extend the concession of anticipatory bail.

8. Dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

21.07.2023

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