

(105) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-37284-2023
Date of Decision: 02.08.2023

RAMESH KUMAR @ MOHINI PEHALWAN

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Aditya Pratap Singh, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 438 Cr.P.C. is for the grant of anticipatory bail in case bearing FIR No.0057 dated 20.04.2023 (Annexure P-1) registered under Sections 326, 324, 148, 149 IPC, 1860 at Police Station Division 2, District Pathankot, Punjab.

2. As per the prosecution case while the complainant Rajan Sharma and Dilpreet Singh @ Gandhi were going towards the house of Vikram Singh then Hardeep Singh @ Tippi, Deepu Palwan armed with a datar, Mohni Palwan (petitioner) armed with a datar, Sahba armed with datar, Rahul @ Anda armed with a Kirpan, Billi armed with a baseball along with three unknown persons came towards Dilpreet Singh @ Gandhi. Tippi raised a lalkara. Deepu Palwan gave two blows on the head of Dilpreet Singh @ Gandhi with his datar striking the middle of his head and back side of his head. Mohni Palwan gave a datar blow towards Dilpreet Singh @ Gandhi

who raised his left hand as a result of which the datar struck the palm of his left hand causing a grievous injury. Thereafter Rahul @ Anda gave a kirpan blow on his person striking his left wrist. When Dilpreet Singh @ Gandhi got up and tried to run away then Sahba caught hold of him from behind while Raju Batalia gave blows with a datar on his left leg. Billy and three unidentified persons gave beatings to Dilpreet Singh @ Gandhi. The said three persons could be identified. On a lalkara being raised the accused fled away from the spot.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. One Vinod Sharma, the uncle of the present complainant wants to settle scores with Hardeep Singh @ Tippi, a co-accused and thus, all acquaintances of Hardeep Singh @ Tippi including the petitioner had been implicated in the present case. Taking the allegations to be true, the petitioner had been attributed an injury on a non-vital part of the body i.e. left hand of the injured and therefore, his custodial interrogation was not required. Similarly, situated co-accused namely, Raj Kumar alias Raju Bataliya and Hardeep Singh @ Tippi had been granted the concession of interim anticipatory bail and regular bail respectively. Therefore, the petitioner was entitled to the similar concession.

4. On the other hand, the learned State counsel contends that the petitioner is the main accused. He had been attributed a grievous injury attracting Section 326 IPC on the left hand of the injured. The co-accused who had been granted the concession of anticipatory bail had not been attributed grievous injuries. In fact, it has been so observed in the order of Raj

Kumar alias Raju Bataliya that it was the petitioner-Ramesh Kumar @ Mohini Pehalwan who had been attributed the injury attracting Section 326 IPC on the person of Dilpreet Singh alias Gandhi. Therefore, as the case of the petitioner was different from that of his co-accused who had been granted the concession of anticipatory bail, he was not entitled to the similar relief and the present petition was liable to be dismissed.

5. I have heard the learned counsel for the parties.

6. Admittedly, the petitioner is the main accused. The injury attracting Section 326 IPC with a *Dattar* has been attributed to him. Merely because some of the co-accused had been granted the concession of anticipatory/regular bail does not entitle the present petitioner for the grant of anticipatory bail as the recovery of a *Dattar* is to be effected from him and the investigation is to be taken to its logical conclusion.

7. Keeping in view the fact that the recovery of the weapon is to be effected from the petitioner and the nature and gravity of the offence committed by him, he is not entitled to the concession of anticipatory bail. Therefore, the present petition stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

02.08.2023

JITESH

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