

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-54673-2021 (O & M)****Date of decision: 12.01.2023**

Gurwinder Singh @ Govinda

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sandeep Kumar Bokolia, Advocate, for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

Mr. Kanav Bansal, Advocate,
for Mr. Achin Gupta, Advocate, for the complainant.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 438 Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No.194 dated 20.10.2021 under Sections 341, 324, 323, 506, 34 IPC (Section 326 IPC added later on) registered with Police Station Sadar Faridkot, District Faridkot.

2. The present FIR came to be registered at the instance of Iqbal Singh who stated that he was a Sarpanch of village Purani Pipli. He had two children, a son and a daughter. Gurwinder Singh @ Govinda (the present petitioner) was a supporter of his opponent Jasvir Singh Nambardar, who was defeated in the elections. Therefore, the said Jasvir Singh Nambardar and the present petitioner were not happy with complainant's election as a Sarpanch. On 20.10.2021 at about 10.00 a.m., he (complainant) alongwith

When they reached near solar system near the village pond, then Jasvir Singh Nambardar and Gurwinder Singh @ Govinda (petitioner) armed with a *kapa* and one unknown person who had tied a handkerchief on his face, came in front of their (complainant party's) motorcycle and surrounded them. Jasvir Singh Nambardar raised a *lalkara* to teach them (complainant party) a lesson. He (complainant) got off the motorcycle. In the meantime, the petitioner gave a blow of his *kapa* toward his head but he (complainant) raised his left hand in self-defence and the blow struck his left hand on the small finger. A similar blow struck the ring finger of his left hand. He fell down and raised a cry '*maarta-maarta*'. Thereafter, the unknown person gave a *danda* blow on his left shoulder. After that all the three persons fled away from the spot. One Mahinderjit Singh got him (complainant) admitted at a hospital at Faridkot.

3. The learned counsel for the petitioner contends that it is a case of version and cross-version. The petitioner had suffered injuries attracting Section 323 IPC because of which a DDR No. 31 dated 21.10.2021 (Annexure P-3) was entered with respect to the injuries suffered by him. In fact, the petitioner had been falsely implicated on account of the earlier dispute regarding the demolition of the wall of the house of the petitioner. A civil suit is also pending.

4. The learned counsel for the State, on the other hand, duly supported by the learned counsel for the complainant contend that the petitioner has not got recovered the weapon of offence i.e. *kapa* and since he was not co-operating with the investigation, he was not entitled to the grant of anticipatory bail.

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

6. The petitioner had sought the concession of anticipatory bail and on 29.12.2021, the following order was passed in this case:-

“Learned counsel contends that the petitioner has been implicated in a false case on account of pre-existing litigation between the complainant and the petitioner. Besides, co-accused has been granted pre-arrest bail.

Notice of motion.

Mr. Harbir Sandhu, AAG, Punjab accepts notice and on instructions from ASI Beant Singh, vehemently opposes the prayer for grant of pre-arrest bail by contending that the case of the petitioner is distinguishable from that of the co accused as the petitioner inflicted two kappa blows on the petitioner who in order to protect himself raised his left hand as a result of which his left hand's little finger got chopped off and a surgery in respect thereto was performed, besides, the petitioner is openly bragging having inflicted injuries on the complainant on facebook.

Faced with the aforementioned position, learned counsel for the petitioner requests for an adjournment to obtain instructions and to argue the matter.

Adjourned to 05.01.2022.”

7. Thereafter, the matter was adjourned and on 23.02.2022, the following order was passed:-

“Learned counsel for the petitioner has argued that in the alleged occurrence, the petitioner also suffered injuries and cross case also stands registered against the complainant through DDR No.31 dated 21.10.2021 (Annexure P-3) at the instance of Gurwinder Singh (co-accused of the petitioner). He further submits that the offence punishable under Section 326 IPC was added subsequently.

Learned State counsel has referred to the reply filed by way of affidavit of Azad Davinder Singh, PPS, Deputy Superintendent of Police, Sub Division Faridkot to contend that the petitioner caused the grievous injury on the little finger of

left hand of the injured, namely, Iqbal Singh, however, it is not disputed that in the said occurrence, petitioner also got injured.

Adjourned to 21.07.2022.

Meanwhile, the petitioner shall join the investigation and would come present as and when called for and in the event of arrest, the petitioner shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438(2) Cr.P.C.”

8. The interim order continued and on 17.08.2022, the Court was informed that threatening messages were being posted on social media at the instance of the petitioner and his co-accused. Thereafter, the matter was adjourned for 29.08.2022 and subsequently for 28.09.2022 on which date, the following order was passed:-

“Mr. Achin Gupta, Advocate has filed power of attorney on behalf of the complainant in court today.

The Counsel for the petitioner submits that the petitioner has joined investigation.

The Counsel for the State submits that petitioner has joined investigation but he is not co-operating in the investigation in as much as the Kappa has not been got recovered from the petitioner.

The petitioner shall get effected the recovery of the Kappa before the next date of hearing.

The Counsel for the complainant in the meanwhile has reiterated his arguments that threats are being issued to him.

Be that as it may, let the petitioner join investigation once again.

List on 09.01.2023.

Interim order to continue.”

9. A perusal of the aforementioned orders would show that the

petitioner was to get the recovery of the *kapa* effected. However, despite

joining the investigation pursuant to the aforementioned orders, the petitioner has not get recovered the said weapon. Furthermore, threats are being meted out to the complainant-party. Therefore, it is apparent that the petitioner is not co-operating with the investigation and in fact threatening the complainant-party. The medical examination of the complainant has revealed a fracture of the ‘distal shaft of proximal phalanx of the 5th digital (little finger) of left hand’. The said injury has been declared to be ‘grievous’.

7. Thus, on the one hand, the petitioner is not co-operating with the investigation by getting recovered the weapon of offence and on the other, the injuries attributed to the petitioner are attracting Section 326 IPC. Further, threats are being meted out to the complainant on social media. Therefore, the custodial interrogation of the petitioner is certainly required in view of the serious nature of the allegations as also to take the investigation to its logical conclusion.

8. In view of the above, I find no merit in the present case. Therefore, the same is dismissed.

(JASJIT SINGH BEDI)
JUDGE

January 12 , 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No