

CRM-M-57458 of 2022

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

CRM-M-57458 of 2022

Date of decision: 27.02.2023

Harjinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Ms. Himani Kapila, Advocate, for the petitioner.
Mr. Jashanpreet Singh, DAG, Punjab.
Mr. A.S. Khaira, Advocate, for the complainant.

NAMIT KUMAR, J.(ORAL)

This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.196 dated 06.11.2022 under Sections 307, 326, 325, 324, 323, 506, 147 IPC, registered at Police Station Mallanwala, Ferozepur.

Present FIR was registered on the statement of Sukhwinder Singh who stated that on 06.11.2022, at about 8:15 a.m., he along with his nephews Kuljit Singh and Dapinder Singh were sowing wheat in their fields with the help of tractor. At about 8:15 a.m., petitioner-Harjinder Singh on his tractor make Farmtrack-60 came there raising *lalkaras* that this is their land and he would teach them a lesson for sowing wheat and he suddenly accelerated the tractor and tried to run him over. He saved himself by running away. In the meanwhile, petitioner-Harjinder Singh picked up *kappa* and two blows of *kappa* with its right side were given on his palmer aspect of left hand and on little finger. He raised alarm “Maar Ditta Maar Ditta”. Parkash

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Kaur got attracted. She prevented petitioner-Harjinder Singh from doing so. Petitioner-Harjinder Singh raised *lalkara* that he will kill her also. At this, he struck tractor in Parkash Kaur and she suffered injury in her back and on seeing the other family members of complainant, petitioner-Harjinder Singh ran away after leaving tractor in their land along with weapon of offence.

Learned counsel for the petitioner contends that petitioner is innocent and has been falsely implicated in the present case as he has not committed any offence. He further submits that it is a case of version and cross-version and it is yet to be decided as to which party was aggressor. He further submits that all the offences except Section 307 IPC are bailable offences. Custodial interrogation of petitioner is not required. He further submits that petitioner is ready and willing to join the investigation.

Learned State counsel, assisted by learned counsel for the complainant, opposes the prayer for grant of anticipatory bail to the petitioner submitting that allegations against the petitioner are serious in nature. His custodial interrogation is required. Therefore, petitioner does not deserve the concession of anticipatory bail. He further submits that a cross-version registered against the complainant-party during the investigation of the case was found to be false. Petitioner is involved in one more case in case FIR No.162 dated 25.09.2022, in which he has not been arrested so far.

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

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On issuance of notice of motion, learned State counsel has filed status report and paras 4 and 5 of the status report read as under: -

“4. That brief facts of the case are that complainant got recorded his statement with the police that on 06.11.2022 at about 8.15 AM his nephew Kuljit Singh s/o Balvir Singh and relative Dapinder Singh son of Gehal Singh were sowing wheat crop in their land then petitioner Harjinder Singh son of Sukhdev Singh came there on his tractor make Farmtrac-60 came there by raising lalkaras and he speedup his tractor and moved the same towards the complainant with intention to kill him. Complainant succeeded to save himself then petitioner took kapa (sharp edge weapon) from his tractor and gave two blows of same, out of which hit on the palm of little finger of his left hand. On raising hue and cry by the complainant his sister-in-law Parkash Kaur wife of Baldev Singh reached at the spot then petitioner threatened her that he will kill her then struck his tractor into Parkash Kaur due to which she received injury on her back. Family members of complainant started gathered there, due to which accused run away from the spot alongwith his weapon. However, he left his tractor at the spot.

5. That as per MLR of complainant there were total 3 injuries on his person out of which injuries no.1 and 2 were kept under observation, whereas injury no.3 was declared as simple. Weapon used for injury no.1 was sharp in nature whereas blunt weapon was used for injury no.2 and 3.”

As per law laid down by the Hon'ble Supreme Court in

State of Madhya Pradesh v. Pradeep Sharma (2014) 2 Supreme Court

Cases 171, power exercisable under Section 438 Cr.P.C. is somewhat

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extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his/her liberty.

There are specific allegations against the petitioner that he tried to kill the complainant with his tractor and gave two blows with *kappa* on the person of the complainant. Thereafter, he tried to kill Parkash Kaur, sister-in-law of the complainant by running the tractor over her. The allegations are serious in nature. Custodial interrogation of the petitioner may provide information leading to discovery of material facts. Curtailing of his freedom is necessary in order to enable the investigation to proceed without hindrance and to protect witnesses.

In view of the facts and circumstances of the case, I am of the considered view that petitioner cannot prima facie be said to have been falsely enroped in the crime and his custodial interrogation is necessary in the case and that petitioner is likely to abscond and misuse his liberty and does not deserve grant of anticipatory bail.

In view of the above, the petition is dismissed.

27.02.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No