

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-54683-2023

Reserved on:09.11.2023

Pronounced on: 16.11.2023

AMRIT PAL SINGH

. . . . Petitioner

Vs.

STATE OF PUNJAB

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Shiv Kumar Sharma, Advocate, for the petitioner.

Mr. M.S. Nagra, AAG, Punjab.

Mr. G.S. Sandhu, Advocate, for the complainant.

DEEPAK GUPTA, J.

By way of this petition filed under Section 438 CrPC, petitioner prays for grant of anticipatory bail in case FIR No.190 dated 17.08.2023 registered at Police Station City Sunam, District Sangrur, under Sections 452, 323, 341, 148 and 149 IPC (Sections 308 and 325 IPC added later on).

2. (i) FIR was lodged on the complaint of Amritpal Singh son of Paramjit Singh, as per which his aunt (Chachi) Kiranjit Kaur is residing in America along with her family. Complainant used to take care of her plot & land and used to pay the theka amount to her. It was alleged that his neighbours Amritpal Singh son of Rajinder Singh (present petitioner), Gurjinder Kaur and Rajinder Singh had earlier tried to take forcible possession of the land and plot of his aunt regarding which his aunt had

filed a case, which is pending in the Court at Sunam. It was alleged that accused Amritpal Singh son of Rajinder Singh had started parking his cow dung rehri in the plot forcibly after breaking the barbed wires and had further started threatening the complainant and his family, when they raised objection in this regard.

(ii) Complainant further alleged that on 15.08.2023 at about 6.30 am, when he was standing near the gate of his house, accused Amritpal Singh son of Rajinder Singh started abusing him. He went inside. Gursewak Singh, working as conductor on his bus also reached there. Thereafter, accused Amritpal Singh (petitioner), his father Rajinder Singh and mother Gurjinder Kaur alongwith two unknown persons entered his house with sticks. Accused Amritpal Singh son of Rajinder Singh gave stick blows hitting on the left side of his head. He fell on the ground. Accused Amritpal Singh son of Rajinder Singh gave stick blows on his head, left arm and left leg. As Gursewak Singh tried to save him, accused Amritpal Singh son of Rajinder Singh gave stick blows to Gursewak Singh hitting on his forehead. Rajinder Singh gave stick blows on the hand of Gursewak Singh. Unknown persons also gave Gursewak Singh stick blows on his left hand and shoulder. All of them came out of the house and then Rajinder Singh gave stick bow to the complainant hitting on his head and backside. Gurjinder Kaur and unknown person also gave beatings to him. On seeing the blood oozing from the head of the complainant and Gursewak Singh, all of them fled away from the spot.

3. It is submitted by the petitioner that FIR is gross misuse of the process of law and an attempt to refrain the accused persons (petitioner &

his family) from contesting the civil suit regarding the property, which is already pending. There is unexplained delay of two days in lodging the FIR. Contents of the FIR reveal that despite being fit to make the statement, complainant's wife refused to make the statement, when police approached them and thereafter, FIR has been lodged with a concocted version. It is contended further that complainant has been forcing the petitioner and his family to withdraw the civil suit filed by them before competent Court and present FIR is nothing but a counterblast to the civil proceedings. It is also contended that on 15.08.2023, it is the complainant party, which had attacked the petitioner and his family members and gave injuries to them and regarding this incident, FIR No.192 dated 17.08.2023 under Sections 323/341/148/149 IPC was registered at Police Station City Sunam, District Sangrur. It is further stated that Section 452 IPC was only added by the police to make the offence non-bailable, though the incident took place on the open path near the field and not inside the house of the complainant as is alleged and that said fact is visible from the screen shots taken from the video of the incident. Petitioner further submits that he is ready to join the investigation and in all these circumstances, he be allowed bail.

4. (i) As per the status report filed by the respondent state, 2 MLRs were received on 15.08.2023, one pertaining to Amritpal Singh son of Paramjit Singh (complainant of present FIR No.190 dated 17.08.2023) and the other of Gursewak Singh. Both the injured were informed to have been referred to Civil Hospital, Sangrur. On 16.08.2023, IO reached Civil Hospital, Sangrur and it was informed that injured Amritpal Singh son of Paramjit Singh had been sent back to SDH, Sunam, whereas injured Gursewak Singh was found to have been admitted at DMCH, Ludhiana. On

16.08.2023, IO reached SDH Sunam, where Mandeep (wife of the complainant Amritpal Singh son of Paramjit Singh) told the IO that they will record their statement on next date. Police report further says that on the basis of statement made by complainant-Amritpal Singh son of Paramjit Singh on 17.08.2023, present FIR was registered.

(ii) Status report further says that two of the injures on the person of Gursewak Singh were declared grievous, whereas one injury on the person of the complainant-Amritpal Singh son of Paramjit Singh was declared grievous and so, Section 325 and 308 IPC was added.

(iii) Status report filed by the State further reveals that on 15.08.2023 itself, three other MLRs regarding admission of all the accused persons of FIR No.190 dated 17.08.2023 i.e. Amritpal Singh son of Rajinder Singh (petitioner), his mother Gurjinder Kaur and father Rajinder Singh were received in the Police Station. Statement of petitioner-Amritpal Singh son of Rajinder Singh was recorded on 17.08.2023 and in the light thereof and the medical record, another FIR No.192 dated 17.08.2023, under Sections 323/341/148/149 IPC was registered against Amritpal Singh son of Paramjit Singh (complainant of FIR No.190 dated 17.08.2023) and 8 other people.

5. Having considered submissions of both the sides, this Court finds that this is a case of version and cross-version, in which both the parties have received injuries. At this stage, it is not possible to comment as to which of the party was aggressor. Two FIRs have been lodged on the version and cross-version of each other. It is the accused party (i.e. petitioner's family), which had filed civil suit against Kiranjit Kaur, the aunt

of the complainant, in which status quo order was passed, as is evident from Annexure P3. Besides, it is not explained by the prosecution as to how Section 308 IPC has been invoked considering the fact that two injuries on the person of Gursewak Singh and one injury on the person of the complainant-Amritpal Singh son of Paramjit Singh were found to be grievous only, with no medical opinion that any of the injuries were dangerous to life.

6. Having regard to all the above facts and circumstances, but without commenting anything further on merits of the case, petition is allowed. Petitioner is directed to be released, in the event of his arrest, on furnishing requisite bonds to the satisfaction of the arresting officer, subject to the condition that he shall join the investigation as and when so required by the Investigating Officer. He shall not contact any person associated with the case to dissuade him from the investigation in any manner whatsoever and nor shall leave the country without prior permission of the Court. He shall further comply with the conditions stipulated in Section 438(2) Cr.P.C.

7. It is made clear that in case petitioner fails to co-operate in investigation, he shall face the consequences as per law.

16.11.2023

Vivek

(DEEPAK GUPTA)
JUDGE

1. Whether speaking/reasoned?
2. Whether reportable?

Yes
No