

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

CRM-M-57788-2022

Date of Decision: 11.01.2023

SONA SINGH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Puneet Kumar Bansal, Advocate
for the petitioner.

Mr. Vinay Kumar Gupta, A.A.G., Punjab.

HARSH BUNGER, J.

Petitioner has filed this petition under Section 438 of the Code of Criminal Procedure, seeking anticipatory bail in case FIR No.155 dated 09.07.2022, registered under Sections 452, 324 and 323 read with Section 34 of the Indian Penal Code (Section 452 IPC deleted later on and Section 326 IPC added later on), at Police Station Sadar Ferozepur, District Ferozepur.

Brief facts of the case are that the FIR in question, was registered on the statement of one Malkeet Singh son of Phuman Singh resident of Village Jhugge Hazara Wala, Police Station Sadar Ferozepur, who had stated that on 08.07.2022, in the morning, his nephew Mukhtiar Singh son of Jangir Singh was given threat to kill by Sona Singh son of Jarnail Singh and on account thereof, when the complainant was going to the house of member panchayat Balwinder Singh at around 1:30 p.m. to

give information, Sona Singh son of Jarnail Singh armed with *gandaasi*, Jarnail Singh son of Kartar Singh armed with *daang*, Tarsem Singh son of Satnam Singh Nambardar armed with *daang*, all residents of Village Jhugge Hazar Wala were standing near the house of Balwinder Singh and upon seeing the complainant, Tarsem Singh raised a *lalkara* to catch hold of him and not to allow him to go and he be taught lesson for getting the liquor tavern closed. It is stated in the complaint that due to fear, the complainant ran and reached his house and above said three persons followed him and entered his house, where Sona Singh gave a direct blow of his *gandaasi* towards the complainant and when the complainant raised his left hand in his defence, then *gandaasi* blow hit on his left hand and in the meantime, Tarsem Singh gave blow of corner of his *daang* on the right side of the chest of the complainant due to which, the complainant fell down. While the complainant was lying on the floor then Sona Singh gave *gandasi* blow from the reverse side on the complainant which hit him on the lower side of the right knee. It is further stated that Jarnail Singh also gave *daang* blow on the complainant which hit him on the back side of his right hand, whereupon the complainant raised the alarm, then his nephew Harbhajan Singh along with other persons rushed towards his house and on seeing them, the above said accused persons fled away from the spot along with their weapons. It is further stated that Harbhajan Singh (nephew of the complainant) after arranging the vehicle got the complainant admitted in the Civil Hospital for treatment.

On the basis of above said complaint, the FIR in question, was registered.

Apprehending arrest in this case, the present petitioner approached the Court of Additional Sessions Judge, Ferozepur, seeking

anticipatory bail; however, the same was rejected vide order dated 04.08.2022. Accordingly, the petitioner has filed the instant petition before this Court seeking anticipatory bail.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in this case as the complainant (Malkeet Singh) had inflicted injuries on the father of the petitioner and the instant FIR has been got registered only to pressurize the petitioner and his family members. Learned counsel further submitted that it is a case of version and cross version and it is a debatable issue as to which party is the aggressor party. It is also submitted that the petitioner is ready and willing to join investigation as and when required by the Investigating Agency or as directed by this Court or the trial Court.

Per contra, learned State counsel has opposed the plea of bail sought by the petitioner by submitting that the offence is serious in nature; specific allegations have been levelled against him; specific role has also been attributed to him and that grievous injury has been caused to the complainant, therefore, the petitioner does not deserve the concession of anticipatory bail.

I have heard learned counsel for the parties and have perused the paper book with their able assistance.

Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from custodial interrogation.

A perusal of the FIR reveals that specific allegations have been levelled against the petitioner that he has caused grievous injury with sharp edged weapon upon the complainant.

In my considered view, the custodial interrogation of the petitioner is absolutely necessary to find out as to how the entire occurrence was planned and executed and who all other persons are involved in the commission of crime and also the role played by each of such persons. Moreover, the weapons of offence are also yet to be recovered.

In *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble the Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail.

In *Jai Prakash Singh Versus State of Bihar and another etc., 2012(2) RCR (Criminal) 251*, Hon'ble the Apex Court observed that neither anticipatory bail nor regular bail can be granted as a matter of rule and the anticipatory bail being an extraordinary privilege should be granted only in exceptional cases.

Keeping in view the above facts and circumstances, the petitioner in the present case is not entitled for grant of anticipatory bail as no exceptional circumstance has been brought forth in that regard. Accordingly, the present petition under Section 438 Cr.P.C. seeking grant of anticipatory bail to the petitioner in case FIR No.155 dated 09.07.2022, registered under Sections 452, 324 and 323 read with Section 34 of the Indian Penal Code (Section 452 IPC deleted later on and Section 326 IPC added later on), at Police Station Sadar Ferozepur, District Ferozepur; is dismissed.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose

of adjudicating the present bail petition.

January 11, 2023
gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No