

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

CRM-M-58850 of 2022

Date of Decision:05.01.2023

Balkour Singh

.....Petitioner

Vs.

State of Punjab

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Jupinder Pal Singh Brar, Advocate
for the petitioner.

Mr. R.S. Khaira, DAG, Punjab.

DEEPAK GUPTA, J.

Reply by way of affidavit of DSP, Talwandi Sabo, District Bathinda has been filed on behalf of the respondent- State of Punjab. The same is taken on record.

The petitioner is seeking pre-arrest bail by way of this petition under Section 438 Cr.P.C in case FIR No.167 dated 22.09.2022 registered under Sections 307/452/324/323/341/506/148/149 (Sections 325 and 326 IPC added later on) at Police Station Talwandi Sabo, Bathinda.

FIR was lodged on the statement of Jagjit Singh, who was on visiting terms with Charanjit Kaur. On 21.09.2022, Jagjit Singh and Charanjit Kaur had gone to the village for some work and came to know that accused- petitioner Balkour Singh along with co-accused Harpinder Singh alias Jindu, Kulvir Singh alias Keeda, Kuljinder Singh alias Kalu and Malkit Singh son of unknown had entered the house of Charanjit Kaur and had caused injuries to her son Baljeet Singh. In order to inform this incident to the Police, the complainant Jagjit Singh and Charanjit Kaur were on the way to the Police Station. At about 10:30 A.M., they were encircled by four

motor-cycles occupied by five assailants named above including Balkaur Singh and 4-5 unknown persons. Kulveer Singh alias Keeda raised lalkara to teach a lesson to Jagjit Singh for residing with Charanjit Kaur. Balkaur Singh alias Kari – petitioner then inflicted gandasa blow with an intention to cause death towards the head of complainant but in order to save himself, he raised his left hand and the gandasa hit on his left bicep. Keeda then in order to cause death inflicted gandasa blow to the complainant but as he raised his arm, the same hit on his left bicep. Jindu inflicted Tamba blow hitting the left arm of complainant. Complainant fell on the ground and Kalu then hit sotti on his left hand. Petitioner Kali alias Balkaur Singh gave another blow with gandasa hitting to left shoulder of complainant. The other assailants caused more injuries to the complainant. All of them also inflicted injuries to Charanjit Kaur.

FIR was registered. All the three injured i.e. Jagjit Singh, Charanjit Kaur and Baljeet Singh were medico legally examined. They were also subjected to radiological examination. It was revealed that out of eight injuries suffered by Jagjit Singh, four of them, namely, injury No.1, 5, 7 and 8 were caused by sharp weapon and rest by blunt weapon. Charanjit Kaur suffered four injuries, whereas Baljeet Singh was caused one injury. Injuries No.3, 5 and 7 suffered by Jagjit Singh were found to be grievous in nature. Injuries No.1 and 3 on the person of Charanjit Kaur were found to be grievous.

It is submitted by the petitioner that injuries attributed to him are simple in nature, attracting at the most Section 324 IPC, which is bailable. Conduct of the complainant is improbable as FIR has been lodged after six hours delay. No injury was inflicted on any vital part of the body of the complainant indicating that there was no intention to cause murder and so, Section 307 IPC has been

wrongly foisted upon the petitioner. Even offence under Section 326 IPC is not been made out against the petitioner. It is also submitted that as the occurrence is alleged to have taken place on a public way, so Section 452 IPC has also been wrongly foisted upon. Petitioner further submits that co-accused Harpinder and Kuljinder have already been given benefit of anticipatory bail by this Court in CRM-M-51558 of 2022. Malkeet Singh was also allowed anticipatory bail. Another co-accused Kulveer Singh is stated to have been released on regular bail. It is submitted that petitioner is ready to join the investigation. With these submissions, prayer is made for grant of anticipatory bail.

Refuting the aforesaid contentions, it is submitted by learned State Counsel that petitioner is one of the principal accused who inflicted injuries to Jagjit Singh and Smt. Charanjit Kaur with gandasa. Attention is drawn towards the FIR in which it is clearly stated by Jagjit Singh that gandasa blow was directed towards his head by the petitioner- Balkour Singh and it was due to the reason that he raised his hand that the gandasa did not hit his head and rather it hit his left bicep. Learned State Counsel further submits that petitioner cannot claim parity with co-accused Harpinder Singh and Kuljinder Singh as they were attributed to have caused injuries with a wooden stick (tamba) or Sotti. Similarly, another co-accused Malkeet was attributed only with lalkara. It is also pointed out that in fact two occurrences took place. Initially, the petitioner along with co-accused entered the house of Charanjit Kaur and caused injuries to Baljeet Singh and it is for this reason that Section 452 IPC was inserted. Thereafter, when Jagjit Singh and Charanjit Kaur were on the way to the Police Station to report the matter, they were waylaid by the petitioner and co-accused and were caused injuries. Learned State Counsel also submits that in order to attract Section 307 IPC, it is

not necessary that actual injury must have been caused on the vital part of the body and rather it is the intention of the assailant which is required to be seen which in this case is apparent as petitioner wanted to hit gandasa on the head of Jagjit Singh.

Having considered the submission of both the sides, I agree with the contentions raised by learned State Counsel that it is not a fit case to exercise the discretion of grant of anticipatory bail in favour of the petitioner who is attributed to have caused gandasa blows to the complainant Jagjit Singh and Charanjit Kaur. Considering the kind of weapon used by the petitioner and the specific role attributed to him, I am also of the view that his case is not on parity with the co-accused Harpinder, Kuljinder and Malkeet.

Consequent to the above discussion, but without commenting anything on the merits of the case, present bail petition is rejected.

January 05, 2023
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned
Whether Reportable

Yes/No
Yes/No