

CRM-M-30 of 2023 (O&M)

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

CRM-M-30 of 2023 (O&M)

Date of decision: 06.02.2023

Rohi Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. J.S. Moudgill, Advocate,
for the petitioner.

Mr. Adhiraj Singh, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

CRM-4128 of 2023

This application has been filed by the applicant-petitioner under Section 482 Cr.P.C. for placing on record copies of statements of PW-1 complainant-Beant Singh and PW-2 injured-Varinder Singh as Annexures P-4 and P-5, respectively.

In view of the averments made in the application, same is allowed. Annexure P-4 and P-5 are taken on record subject to all just exceptions.

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This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.69 dated 19.05.2020 under Sections 307, 323, 341, 148, 149, 120-B IPC, registered at Police Station Chajjli, District Sangrur.

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FIR in the present case was got lodged on the basis of statement made by Beant Singh alleging that on 18.05.2020, at about 10:15 PM, his brother Varinder Singh alias Satgur Singh was coming on his scooter along with his wife Sukhdeep Kaur after enquiring the wellbeing of his sister-in-law. They were coming towards their house. When they reached bus stand Ratola, Gagandeep Singh Sarpanch, Surjit Singh, Lakhi Singh, Bunty, Rohi Singh (petitioner) and petitioner's nephew along with some other unknown persons were standing. They intercepted scooter of his brother. His sister-in-law Sukhdeep Kaur escaped shouting that the Sarpanch party had attacked Varinder Singh. Complainant along with his father Banta Singh reached at the spot. They saw Gagandeep Sarpanch, with intention to kill, gave an iron rod blow on Varinder Singh's head due to which Varinder Singh fell down. Surjit Singh armed with iron rod, Lakhi Singh armed with a stick gave various blows on both the legs and arms of Varinder Singh. Petitioner-Rohi Singh, Bunty Singh and petitioner's nephew also gave many stick blows on the person of Varinder Singh. When he and his father raised alarm and came forward to rescue his brother, Gagandeep Sarpanch gave iron rod blow towards complainant, which fell on his left ear. Bunty Singh then gave a stick blow to complainant which hit on left side of his head. Thereafter, Lakhi Singh also gave a stick blow on left leg of complainant due to which he also fell down. Petitioner and his nephew gave various stick blows on the left leg and left arm of the complainant. When his father Banta Singh came forward to save both of them, Gagandeep Singh and others gave

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injuries to his father as well. Due to the alarm raised by complainant and his brother, people from the village gathered there. On seeing them, all the aforesaid persons along with their weapons fled away from there. He and his father were taken to Civil Hospital Sunam by Kulvir Singh of their village. His brother Varinder Singh was taken to Civil Hospital Sangrur by Kamaljeet Singh. His brother was referred to Rajendra Hospital Patiala but due to serious condition of his brother, he was referred to PGI Chandigarh. Motive behind the occurrence is that his brother Varinder Singh was quarantined during lockdown in the government school. Gagandeep Singh Sarpanch had already sent the other quarantined patients back to their houses but his brother Varinder Singh was still kept quarantined in the school due to which there was an altercation between the parties and proceedings under section 107/151 Cr.P.C. were conducted. All the accused had caused injuries to complainant party due to the said motive. During investigation, an inquiry was conducted by SP (Operation) Sangrur after an application was filed by Kulwant Kaur, wife of the petitioner for declaring Surjit Singh, Gagandeep Singh and petitioner as innocent. In the said inquiry, petitioner sought to be summoned as additional accused was declared innocent. As per the inquiry report, the occurrence was found to have taken place but the petitioner was not found to be involved in the occurrence. Thereafter, an application was filed by the prosecution under Section 319 Cr.P.C. for summoning the petitioner, who was kept in column No.2 in the report under Section 173 Cr.P.C., as an additional accused. The said application was allowed on the basis of

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statements of PW-1 Beant Singh and PW-2 Varinder Singh vide order dated 27.09.2022 (Annexure P-2) by the Court of learned Additional Sessions Judge, Sangrur. Thereafter, petitioner filed application for bail under Section 438 Cr.P.C., which has been dismissed by the Court of learned Additional Sessions Judge, Sangrur, vide order dated 06.12.2022 by observing as under: -

“7. Legally, the bail applicant can seek anticipatory bail under Section 438 Cr. P. C. only in case of his apprehension that he may be detained by the police or any other Officer subordinate to this Court. As, the bail applicant has been summoned by this court to face trial under Sections 307/323/341/324/325/326/148/149/120-B IPC, he cannot make a prayer that this Court should issue the direction to itself to release him on bail in case he appears before it. He may approach the Honorable High Court to seek pre-arrest bail. Hence, in the considered opinion of this Court, the application U/s 438 Cr.P.C. is not maintainable and it is hereby dismissed as such.”

Learned counsel for the petitioner contends that the petitioner is innocent and has been falsely implicated in the present case. He was kept in column No.2 in the report under Section 173 Cr.P.C. and on an application filed by the prosecution, he has been summoned as an additional accused to face trial under Sections 307, 341, 323, 325, 148, 149, 120-B IPC. He further submits that no recovery is to be effected from the petitioner. Learned counsel further submits that co-accused of the petitioner, namely, Babblu Singh; Gagandeep Singh @ Sarpanch; Harbhajan Singh alias Lakhi Singh and Banty Singh have been granted regular bail by Co-ordinate Benches of

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this Court vide orders dated 07.04.2021; 04.07.2022; 08.07.2021 and 11.10.2021 passed in CRM-M-42736 of 2020; CRM-M-7886 of 2022; CRM-M-42736 of 2020 and CRM-M-31139 of 2021, respectively, whereas co-accused Harpreet Singh has been granted the benefit of anticipatory bail by a Co-ordinate Bench of this Court vide order dated 26.11.2020 passed in CRM-M-27793 of 2020 as no injury was attributed to him. He further submits that petitioner is ready and willing to face the trial.

Per contra, learned State counsel submits that in spite of specific allegations against the petitioner, he was kept in column No.2 and after recording the statements of PW-1complainant-Beant Singh and PW-2 injured-Varinder Singh, he has rightly been summoned as an additional accused to face the trial along with his co-accused. He further submits that the petitioner is involved in four other cases, particulars of which are as under: -

Sr. No.	FIR No./date	Under Sections	Police Station
1.	37/24.04.2013	15/61/85 of the NDPS Act	Ghaga
2.	53/27.07.2013	15/61/85 of the NDPS Act	Dharamgarh
3.	139/04.11.2013	458, 323, 148, 149 IPC	Chajali
4.	86/05.08.2014	365, 324, 323, 341, 342, 148, 149, 120 IPC	Chajali

He further submits that such information has not been disclosed by the petitioner and in para 10 of the petition it is stated that no such or similar FIR is registered/pending against the petitioner.

To counter the said assertion of the learned State counsel, learned counsel for the petitioner submits that in most of the cases either the petitioner has been acquitted or the FIR has been cancelled.

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

Be that as it may, it is a proven fact the petitioner has concealed his involvement in the abovesaid four cases. It is a well-settled proposition of law that a person who does not approach the Court with clean hands and played fraud with the Court, is not entitled for any relief. Reference in this regard can be made to the judgments in ***Dalip Singh v. State of U.P. and others - JT 2009 (15) SC 201: (2010) 2 SCC 114*** and ***Amar Singh v. Union of India and others, WP(C) No.39/06 decided on 11.05.2011.***

Petitioner has been summoned as an additional accused under Section 319 Cr.P.C. after the Court came to the conclusion that he was wrongly shown in column No.2 by the police in the final report under Section 173 Cr.P.C. and has been summoned on the basis of statements of PW-1 complainant-Beant Singh and PW-2 injured-Varinder Singh to face trial along with other co-accused on the ground that petitioner along with other co-accused armed with sticks gave injuries to the complainant party.

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 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.

Keeping in view the facts and circumstances of the case, role attributed to the petitioner and gravity of offence, petitioner does

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not deserve the concession of anticipatory bail, as his custodial interrogation is necessitated in the present case.

The present petition is accordingly dismissed.

However, anything observed hereinabove shall not be construed as an expression of opinion on the merits of the case.

06.02.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No