

105

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

CRM-M-59905-2023 (O&M)**Date of Decision: 29.11.2023**

Gaurav

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. A.S.Manaise, Advocate, for the petitioner.

Mr. Ramdeep Partap Singh, Senior DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner in FIR No.124 dated 10.09.2023, under Sections 307, 326, 325, 324, 323, 336, 148, 149 IPC and Sections 25 and 27 of Arms Act, registered at Police Station Sri Hargobindpur, Police District Batala, District Gurdaspur.

2. Learned counsel appearing on behalf of the petitioner submitted that the petitioner has been falsely implicated in the present case and has also brought to the notice of this Court that the anticipatory bail filed by the brother of the petitioner namely, Saurav @ Gurwinder Singh who is also co-accused in the present case has been dismissed by passing a detailed order by this Court on 23.11.2023. He submitted that although the petitioner and his brother namely, Saurav @ Gurwinder Singh were named in the FIR but the role of the present petitioner is different and, therefore, the petitioner may be considered for the grant of anticipatory bail.

3. I have heard the learned counsel for the petitioner.
4. This Court had heard the anticipatory bail of the other co-accused namely, Saurav @ Gurwinder Singh and his anticipatory bail has been dismissed by passing a detailed order in CRM-M-51804-2023 which is reproduced as under:-

“1. The present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner in FIR No.124 dated 10.09.2023, under Sections 307, 326, 325, 324, 323, 336, 148, 149 IPC and Sections 25 and 27 of Arms Act, registered at Police Station Sri Hargobindpur, Police District Batala, District Gurdaspur.

2. As per the allegations contained in the FIR, which was lodged on the basis of complaint made by one Chetan Singh, complainant that he is working as a Muneem at Friends Gram Udyog Samiti, brick kiln and one Honey Sharma is also working as a Muneem at the same brick kiln. On 07.09.2023, he along with Honey Sharma was going on bullet motorcycle at about 7.00 P.M towards Talwara and when they reached Talwara near the rented kothi of Saurav (present petitioner), then Navdeep Singh Pannu, President of Nagar Council, Sri Hargobindpur, Saurav (present petitioner) and Gaurav both sons of Satnam Singh, Ram Lal, Joban, Sunny, Sukhi along with 4-5 unknown persons were standing on the road. On looking at them, Navdeep Singh Pannu said that catch hold of them and do not spare them today. Thereafter Honey Sharma immediately turned back the motorcycle in fear and drove from Talwara to Gurdwara Damdama Sahib side and they went towards Marri Buchian brick kiln. At that time, they heard the sound of two fires in the air and when they reached a little ahead of village Galowal, then a silver Innova car and one Skoda car came from behind. The Innova car hit their motorcycle from behind and he fell down from the bike. While Honey Sharma fled away on the motorcycle in fear. From both the vehicles Sukhi and Saurav (present petitioner) armed with datar, Ram Lal armed with basebat, Joban armed with sua, Gaurav`armed with datar and Sunny armed

with basebat along with 4-5 unknown persons armed with sticks came down and while he was laying down, Sukhi gave two datar blows which hit on his fingers of his left hand and right ankle. Saurav (present petitioner) gave two datar blows which hit on the fingers of his right hand and behind his right knee. Ram Lal gave basebat blow on his right wrist. Joban gave three sua blows which hit on his right elbow, left foot and right knee. Gaurav who is the brother of the present petitioner gave two datar blows which hit on his right bicep and on the right side of his head. Sunny gave basebat blow to him which hit on his left wrist. The unknown persons also gave sticks blows to him which hit on his back and other parts of the body and he fell unconscious. Thereafter father of the petitioner arranged the conveyance and brought him to Civil Hospital, Batala and thereafter, he was referred to Guru Nanak Dev Hospital, Amritsar but due to number of injuries, he went to Hargun Hospital, Amritsar for treatment. It is also stated in the FIR that the bone of contention was that few days ago, he had a minor quarrel with Saurav (present petitioner) and Gaurav, brother of the petitioner, due to which the above said persons had caused injuries to him with common intention.

3. *Learned counsel appearing on behalf of the petitioner submitted that the petitioner has been falsely implicated in the present case and in fact earlier there had been three FIRs against the petitioner and also against the complainant because earlier there had been a fight between them also and it was in order to falsely implicate the petitioner that the present FIR was lodged. He submitted that even otherwise as per the MLR report and the affidavit filed by the State, the head injury was not attributed to the petitioner and was attributable to the other co-accused namely, Gaurav and so far as the present petitioner is concerned, injuries although were grievous in nature but were on non-vital part of the body and, therefore, the petitioner may be considered for grant of anticipatory bail.*

4. *On the other hand, Mr. Gurdarshan Singh Sidhu, AAG, Punjab while referring to the affidavit filed by the State submitted that it is a case where about 10 persons including the*

petitioner and his brother collectively formed unlawful assembly and attacked the complainant namely, Chetan Singh and the other person namely, Honey Sharma. However, Honey Sharma fled away from the spot but the complainant was caught by about 10 persons who had come on two different cars along with weapons and collectively they caused multiple injuries to the complainant. While referring to para No. 5 of the affidavit, he submitted that as per the Medico Legal Report, the complainant Chetan Singh received 12 injuries on his person. Out of these injuries, 5 injuries i.e. injury No. 4, 5, 6, 7 and 10 have been declared grievous in nature. The said injuries are on the right hand, left hand and right leg of the complainant. One injury is on his head and the same has been attributed to co-accused Gaurav. Six injuries i.e injury No. 1, 2, 4, 5, 6 and 9 have been caused with sharp edged weapon and the remaining injuries have been caused with blunt weapons. The injury attributed to the petitioner is on the right hand of the complainant and the same has been declared to be grievous in nature. He submitted that a gang of about 10 persons armed with deadly weapons chased the complainant who was on his motorcycle along with his friend and they hit him with their Innova vehicle with the result that the complainant fell down and thereafter all of them they collectively caused injuries to him. He also submitted that the petitioner is involved in 3 more cases and is a habitual offender. He further submitted that for the purpose of qualitative investigation and for recovery of weapons, the custodial interrogation of the petitioner is required and therefore, the petitioner does not deserve the concession of anticipatory bail.

5. *I have heard the learned counsels for the parties.*

6. *As per the allegations as aforesaid about 10 persons including the petitioner collectively allegedly caused multiple injuries upon the complainant. Learned State counsel has submitted that for the recovery of weapons and also for the qualitative investigation, the custodial interrogation of the petitioner is required and particularly in view of the fact that the petitioner is involved in 3 more cases which have been so described in para No. 7 of the affidavit. About 5 injuries out of 12 injuries have been*

declared to be grievous in nature and one injury is also stated to be on the head although not caused by the petitioner but by the other co-accused. A perusal of the last part of the FIR would also disclose the motive of the present offence since there was a quarrel between the petitioner alongwith his brother and the complainant some days ago. Therefore, this Court is of the view that considering the gravity and magnitude of the offence involved, the present petitioner does not deserve the concession of anticipatory bail.

7. *Consequently, the present petition is dismissed.*

8. *However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.”*

5. As per the allegations, both the petitioner and the aforesaid Saurav @ Gurwinder Singh who are the brothers, they have been named in the FIR and direct roles have been attributable to them. A perusal of the FIR would show that even the present petitioner Gaurav was allegedly armed with datar and he gave two datar blows which hit on the right bicep and on the right side of the head of the complainant. It is a case where the allegations were that a gang of about 10 persons armed with badly weapons have chased the complainant and thereafter serious injuries were caused. Total 12 injuries have been caused out of which 5 have been declared grievous in nature and one injury is stated to be on the head. Therefore, this Court is of the view that the present petitioner also does not deserve the concession of anticipatory bail in view of his role as so stated in the FIR, gravity of the offence and also the fact that the similarly situated co-accused namely, Saurav @ Gurwinder Singh who is his brother had filed anticipatory bail petition before this Court which has been dismissed by passing the aforesaid detailed order.

7. Consequently, the present petition is dismissed.
8. However, anything observed hereinabove shall not be treated as
an expression of opinion on merits of the case and is only meant for the
purpose of decision of present petition.

29.11.2023

(JASGURPREET SINGH PURI)
JUDGE

Rakesh

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No