

**205 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-61222-2023****Date of Decision:21.12.2023**

Happy Singh

...Petitioner

Vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.ShekhawatPresent: Mr. P.K.S Phoolka, Advocate
for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

N.S.Shekhawat J.

1. The petitioner has filed the present petition under Section 438 Cr.P.C with a prayer to grant anticipatory bail to him in case FIR No.184 dated 03.11.2023 registered under Section 323,324,341,34 of IPC (Section 326 IPC added later on vide DDR No.24 of 09.11.2023, registered at Police Station Nathana, Bathinda, District Bathinda.

2. The FIR in the present case was registered on the basis of statement made by Kartar Singh son of Mal Singh and the same has been reproduced below:-

Copy of Statement. statement of Kartar Singh son of Mal Singh son of Bhagwan Singh, resident of village Bhaini, Tehsil Nathana district Bathinda aged about 55 years, Mobile No.98786-04524 states that I am resident of above said address and doing agriculture work, I have one son and one daughter, my daughter Sandeep Kaur is married and my son Nirmal Singh had already married. I On dated 01.11.2023 at about 6.00 PM in order to get some work done at my house went to the house of Mistri Iqbal Singh to inform him and when I was returning from the house of Mistri Iqbal Singh then in the street Veerpal Singh son of Kartar Singh having iron rod, Happy Singh son of Veerpal Singh having

dasti kirpan, Kalu Singh son of Veerpal Singh having dasti Kulhari and Hira Singh son of Mander Singh having dasti rod iron surrounded me and happy Singh gave kirpan blow towards me and in order to save my self, I raised my left hand and blow hit below my elbow during this I fell on the ground and then while lying down second blow was given by Kalu Singh with Kulhari on my left leg and which hit below the knee of the left leg and third blow hit by Kalu Singh on my left leg which hit on the lower portion of the leg and in the mean time Veerpal Singh gave dasti iron rod blow towards me which hit near the right elbow and Hira Singh gave dasti rod blow upon me which hit on the right thigh and I raised raula of marta marta, then above said accused persons along with their respective weapons ran away from the spot and at that time mason Iqbal Singh and his family also reached at the spot and my wife Nachhattar kaur and my son also came there whom after arranging the vehicle and admitted me in the civil hospital Bathinda, where doctor after giving me first aid got me admitted to and referred me to AIMS hospital Bathinda, but my family members got me admitted to Badiyal Hospital, Bathinda, where I am under treatment. Motive is that about 2 months ago Kalu Singh son of Veerpal Singh has entered somebodies house in intoxicant conditions whom was got understood not to repeat the same due to which Kalu Singh and his family were keeping grudge against me and had beaten me, Strict Legal Action may kindly be taken against them, statement has been recorded in the presence of my wife of Nachhattar Kaur, statement given heard correct. LTI Kartar Singh above said, further attested by Nachattar Kaur, Sd/- Mander Singh HC police station Nathana, Bathinda dated 03.11.2023.

3. Learned counsel for the petitioner submits that the petitioner has been falsely involved in the present case. In fact, the allegations have been levelled against several persons, who were not present at the place of occurrence. He further contends that the offence under Section 326 IPC was

added only to make the offence grave. As per learned counsel, the alleged occurrence had taken place on 01.11.2023, whereas the FIR was registered in the present case after a delay of two days, i.e. 03.11.2023. Thus, the petitioner deserves the concession of anticipatory bail.

4. On the other hand learned State counsel has vehemently argued that in the present case, the present petitioner was carrying a kirpan (small sword) and gave a blow with Kirpan on the complainant. However, in order to save himself, the complainant raised his right hand and the blow had hit near the elbow. The injuries suffered by the complainant was declared to be grievous in nature and the offence under Section 326 IPC was added in the present case.

5. I have heard learned counsel for the parties.

6. It is apparent from the record that the petitioner gave a blow with Kirpan on the elbow of the complainant and the said blow has caused a fracture near the elbow on the person of the complainant. Even the allegations against by the present petitioner are very serious in nature. Apart from that, the petitioner had caused a blow with Kirpan on the right hand elbow of the complainant and the complainant had suffered fractured. Thus, the petitioner had caused an injury on the person of the complainant, which attracted the offence under Section 326 IPC. The Kirpan which was used petitioner in the commission of crime, is yet to be recovered from him.

7. Thus, findings no merits, the present petition is ordered to be dismissed.

(N.S.SHEKHAWAT)
JUDGE

21.12.2023
hitesh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No