

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

CRM-M-300-2024

Date of Decision:-05.02.2024

Inderpal @ Pamma.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Munish Bhardwaj, Advocate for the Petitioner.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

Mr. Rishabh Gupta, Advocate for the Complainant.

JASJIT SINGH BEDI, J.(ORAL)

The prayer in this petition under Section 438 Cr.PC is for the grant of anticipatory bail in case FIR No.109 dated 19.08.2023 under Sections 324, 323, 341, 506, 427, 148, 149 IPC (Section 326 IPC added later on) registered at Police Station City Mamdot, District Ferozepur.

2. The present FIR came to be registered at the instance of Ravinder Kumar son of Sh. Satpal which reads as under:-

“ Statement of Ravinder Kumar son of Satpal resident of Betu Kadim aged about 32 years, Mobile No.95923-50090. Stated that I am resident of above said address and I am present Sarpanch of the village. Work of construction of pond is going on in my village, where the screening chamber is to be laid. On, 17.08.2023 at about 7.00 PM, I was going to pay obeisance with my children on my personal motorcycle, because it was Thursday, then I got a phone call from the contractor who was engaged for the pond work to come up at the pond for seeing the work once. I went to the pond with my children

and while I was talking with the contractor about the work, where other people were standing. After seeing the work, I was returning home with my children. When I reached near the Haveli of Deepak Kumar of my village, which is just on the road, then Inderpal alias Pamma son of Jagdish Lal armed with Kirpan alongwith Akash Dhawan son of Inderpal armed with Kirpan and Ajay Kumar son of Inderpal armed with pistol came from the opposite side who abused me and said to stop to teach a lesson. When I stopped my motorcycle, they all surrounded me and while I was stopping, Inderpal @ Pamma gave me a Kirpan blow which he was carrying in his hand. I raised my left hand to save myself and the kirpan blow given by Inderpal @ Pamma hit me on my palm of left hand. I fell down from the motorcycle and my children also feel down. Then, Akash Dhawan gave me a Kirpan blow which he was carrying in his hand while I was lying down, which hit me on outer bicep of my left arm. Ajay Kumar took out his pistol and hit me with the butt of the pistol on my back During the fight, Inderpal @ Pamma's brother, Balram Dhawan son of Jagdish armed with Dang, Kohinoor Dhawan son of Balram armed with Dasta all residents of Village Betu Kadim also came at the spot. On coming, Balram Dhawan gave dang blow carrying in his hand on my lower back and Raman Kumar hit the Dasta blow on my shoulder. Kohinoor Dhawan gave kick blows on my fallen children and smashed my motorcycle. I raised alarm "Marta-Marta". At this, my brother, Rakesh Kumar and my Taya Vijay Kumar reached at the spot. In the meanwhile, said persons rushed to their house with their respective weapons and kept threatening to kill me. After entering the house, they climbed on the roof and started throwing bricks. My family members by arranging vehicle, got me admitted at Civil Hospital, Ferozepur where I remained under treatment. But due to multiple injuries, later on I am getting treatment from a private Hospital-Dr. Wadhwa Hospital, Mukatsar where I have hand an operation on my hand. Grudge behind the occurrence is that in the year 2018, Inderpal alias Pamma fired at us. In that case, he has been sentenced to undergo 10 years imprisonment and has also come out on bail. Even after coming out on bail, he has quarrelled with us twice earlier and FIR has also been registered and I have filed a petition in the High Court to cancel his bail. Due to that grudge, he has been fighting with us again and again. I got recorded my statement. It is heard and found correct.

Kindly initiate action. Sd/- Ravinder Kumar @Babbu. Attested by Sd/-

Ram Prakash, ASI PS Mamdot dated 19.08.2023.”

3. During the course of the investigation the injury on the person of the complainant was declared grievous in nature and the offence under Section 326 IPC was added on 22.08.2023.

During the course of further investigation one MLR of the petitioner Inderpal was received in the police station. On the basis of the same the statement of the petitioner was recorded and based on the said statement a cross case bearing Rapat No.034 dated 21.08.2023 under Sections 323, 427, 148, 149 IPC came to be registered against the present complainant Ravinder Kumar son of Satpal, Rakesh Kumar son of Satpal, Satpal son of Harbans Lal, Vijay Kumar, Dharampal, Deepak Kumar, Sukhwinder Pal son of Vijay Kumar and Sanjeev Kumar son of Raj Kumar.

4. The Counsel for the petitioner contends that he has been falsely implicated in the present case. Once he was granted the concession of suspension of sentence, in fact it was the complainant party which had attacked him and, therefore, a cross case stood registered. The nature of the injury had been fabricated to show that it was grievous. As the petitioner was ready and willing to join the investigation, he was entitled to the concession of anticipatory bail.

5. The Counsel for the State on the other hand has filed reply dated 04.02.2024 by way of affidavit of Mr. Rajesh Kumar, PPS, DSP (Rural), Ferozepur. He along with the counsel for the complainant contend that in the year 2018, the petitioner had fired at the complainant party and pursuant to a Trial, had been convicted and sentenced to undergo 10 years rigorous imprisonment. After he was granted the concession of suspension of sentence, he had attacked the complainant party on a number of occasions. Even on this occasion, he had caused grievous injuries to the

complainant and the cross version was clearly an attempt to falsely implicate the complainant party. Therefore, the nature of the injuries caused by the petitioner along with his conduct did not entitle him to the grant of anticipatory bail.

6. I have heard learned Counsel for the parties.

7. The Hon'ble Supreme Court in the case of "***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022 Livelaw (SC) 870***", has held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the *prima facie* case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

" It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

*We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. **There appears to be a serious misconception of law that if no case for custodial***

interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail”.

8. In the instant case, quite apparently the petitioner was convicted in a case arising out of the FIR No.05 of 2018 under Sections 307, 452, 148, 149 IPC and Sections 25/27/54/59 of Arms Act. He was granted the concession of suspension of sentence and has gone on to commit the present offence, wherein a grievous injury has been caused by him on the person of the complainant. Merely, because a cross case stands registered under Section 323 IPC does not in any manner suggest that it was the complainant party which was the aggressor side. In fact the conduct of the petitioner is self speaking. As the offence is *prima facie* established, necessary recoveries have to be effected and the investigation has to be taken to its logical conclusion, I do not deem it appropriate to grant anticipatory bail to the petitioner.

9. In view of the above, I find no merit in the present petition and the same stands dismissed.

10. However, the observations made hereinabove are only for the

purposes of deciding this anticipatory bail petition and the Trial Court is free to adjudicate upon the matter on the basis of the evidence lead before it uninfluenced by any such observations made.

(JASJIT SINGH BEDI)
JUDGE

February 05, 2024
Vinay

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