

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

CRM-M-3028-2024

Date of Decision:-25.01.2024

Jagga Singh @ Sukhu Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Mr. Impinder Singh Dhaliwal, Advocate for the Petitioner.

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

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.251 dated 15.11.2023 under Sections 452, 323, 506, 427, 148, 149, 120-B IPC and Section 25 of the Arms Act (Section 325 IPC added later on) registered at Police Station Lambi, District Sri Muktsar Sahib.

2. The present FIR came to be registered at the instance of Tarsem Singh son of Sh. Dhira Singh which reads as under:-

“ Statement of Tarsem Singh son of Dhira Singh, aged about 47 years, resident of Village Killianwali, Mobile No.97798-90686, stated that I am resident of above mentioned address. On 12.11.2023 my (nephew) Gursewak Singh son of Sunny Singh was beaten by our villager, namely Gurjeet Singh son of Iqbal Singh, Lakhvir Singh @ Lalli son of Iqbal Singh, Sukhu Singh son of Balkar Singh, Vrinder Singh alias Lekhi son of Palad Singh, Sajjan Singh son of Swaraj Singh and Sukhvire Singh alias Happy son of Darshan Singh resident of Villaaage Killanwali and I rescued my nephew Gursewak Singh from

the above said person, on 13.11.2023, I was present in my house. That Sukhu son of Balkar Singh armed with Kirpan, Gurjeet Singh son of Iqbal Singh armed with Kirpan, Sukhbir Singh alias Happy son of Darshan Singh armed with Dang, Varinder Singh alias Lekhi son of Prahlad Singh armed with Dang, Sajjan Singh son of Swaraj son of Iqbal armed with Iron rod with the common object to cause injuries, entered into my house. Sukhu Singh son of Balkar Singh gave a Kirpan blow on my nose, Gurjeet Singh son of Iqbal Singh gave Kirpan blow on my right eye brow, Sukhbir Singh alias Happy son of Darshan Singh gave Dang blow on my right elbow, Varinder Singh alias Lekhi son of Prahlad Singh gave dang blow on my chin, Sajjan Singh son of Swaraj Singh gave Sotti blow on my lower side of my left eye, Loveveer Singh alias Lalli son of Iqbal Singh resident of 1 Village Killianwali gave iron rod blow on my right knee thereafter, I fell down while I was lying down, above said persons beaten me and extended to threat to Kill and also damaged to my house. When I raised alarm of Maarta- Maarta, my neighbour Pappu Singh son of Parkash resident of Village Killianwali rescued me from the clutches of above said persons. Thereafter, above said persons fled away from the spot along with their weapons. Reason, behind this that I rescued my nephew Gursewak Singh from the above said persons thereafter, my son Himmat Raj and Pappu Singh arranged the vehicle and got me admitted in Civil Hospital, Lambi where my medical got conducted by the Doctor. The statement recorded by me in the presence of my neighbour Pappu. I have recorded my statement, heard it and found to be correct. Sd/- Tarsem Singh above said. Attested by Pappu Singh s/o Parkash Singh resident of Village Killianwali, Mobile No. 96461-66062. Attested by Sd/- Mohan Singh ASI, Police Station Lambi, Dated: 15.11.2023. Police proceedings..”

3. The Counsel for the petitioner contends that he has been falsely implicated in the present case. It is a case of version and cross version. In fact FIR No.249 dated 13.11.2023 under Sections 323, 324, 148, 149, 452, 427, 506 IPC has been registered only a few days prior to the registration of the present case. However, taking the allegations to be correct the medical evidence was contrary to the ocular account as the petitioner is stated to have

given the injury with a *kirpan* on the nose of the complainant but the injury which was found was a blunt weapon injury declared to be grievous in nature.

4. The Counsel for the State on the other hand contends that the present case is not one of version and cross version. The FIR No.249 dated 13.11.2023 pertains to an earlier separate occurrence and the present FIR bearing no.251 dated 15.11.2023 was regarding the instant occurrence. He further contends that the injury attributed to the petitioner on the dorsal area of the nose was found to be grievous in nature. Therefore, as the petitioner was the main accused, he was not entitled to the grant of anticipatory bail.

5. I have heard learned Counsel for the parties.

6. 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***".

7. As per the prosecution case, the petitioner inflicted a *kirpan* blow on the nose of the injured. The said injury has been declared to be grievous in nature. The manner in which the occurrence has taken place and the nature of the allegations levelled against the petitioner does not entitle the petitioner to the grant of bail, more so when the offence stands *prima facie* established.

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

9. 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

January 25, 2024
Vinay

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