

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

211 CRM-M-4303-2024
Date of Decision : April 16, 2024

GURDHIAN SINGH -PETITIONER

V/S

STATE OF PUNJAB -RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Abdul Aziz, Advocate
for the petitioner.

Mr. Raghav Garg, A.A.G, Punjab.

KULDEEP TIWARI, J. (ORAL)

1. On 25.01.2024, this Court had passed the hereinafter
extracted order, upon the instant petition:-

“Through the instant petition filed under Section 438 Cr.P.C., prayer is made for grant of anticipatory bail to the petitioner in case FIR No.127 dated 29.9.2023, under Sections 452, 341, 323, 506, 148, 149 of IPC (offences under Sections 325 and 201 IPC were added lateron), registered at Police Station Amargarh, District Malerkotla.

The allegations, as levelled in the FIR, are that on 24.9.2023, the present petitioner alongwith other co-accused, gave beatings to the complainant, his father, namely, Jaspal Singh, his sister, namely, Jaspreet Kaur and his grand-father with their respective weapons.

A perusal of the FIR reveals that the present petitioner gave a spade blow on the arm of the complainant, which is stated to be a grievous injury and attracts the offence punishable under Section 325 IPC.

Learned counsel for the petitioner submits that though the injury suffered by the complainant is grievous in nature, but the

offence punishable under Section 325 IPC, is bailable offence. He further submits that there was previous enmity between the complainant party and the accused party, which led to the registration of the present FIR and it is a case where the FIR has been registered after due deliberations and concoctions. He further submits that the petitioner is ready and willing to join the investigation and co-operate with the investigation.

Notice of motion for 8.4.2024.

Mr. Digvijay Nagpal, AAG, Punjab, waives service on behalf of the respondent-State.

In the meanwhile, in the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal and surety bonds to the satisfaction of the Arresting/Investigating Officer. The petitioner shall, however, join the investigation as and when called for and shall also abide by the conditions specified under Section 438(2) of the Cr.P.C.”

2. Today, the learned State counsel, on instructions imparted to him by the official concerned, has stated that pursuant to the making of the hereinabove extracted order, though the petitioner had joined investigation, however, since the injury attributed to him has been declared “grievous in nature”, therefore, he is not entitled for relief of anticipatory bail.

3. To rebut the above made argument of the learned State counsel, the learned counsel for the petitioner has submitted that the present FIR nowhere discloses that the petitioner had intruded into the house of the complainant, rather the narration as made therein is that, petitioner’s co-accused had intruded into the house of the complainant. Therefore, in such circumstances, there was no occasion for the petitioner to cause any injury upon the complainant, and that too, with a spade.

4. Be that as it may, since the petitioner had joined

investigation and his presence at the place of occurrence is a disputed question of fact, therefore, the hereinabove extracted interim order dated 25.01.2024, as made by this Court, is hereby made **absolute**, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

5. This order should not be treated as “blanket” order. It will not be read granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

6. Needless to say that anything observed hereinabove shall not be construed to be an opinion on the merits of the case.

April 16, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No