

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5089-2024

Date of Decision:08.02.2024

Shingara Singh alias Hoshiyar Singh

...Petitioner

VS.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S. Shekhawat**Present :** Mr. Neeraj Madaan, Advocate
for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

Ms. Riffi Birla, Advocate
for the complainant.

N.S.Shekhawat J. (Oral)

1. Status report by way of an affidavit of Deputy Superintendent of Police, Sub-Division, Jalalabad has been filed on behalf of the respondent-State in Court today and the same is taken on record.

2. 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.0044 dated 19.07.2023 under Sections 323, 148, 149 of IPC and Sections 307 and 34 IPC added later on, registered at Police Station Amir Khas, District Fazilka.

3. Learned counsel for the petitioner contends that the alleged occurrence had taken place at 8.00 p.m. on 15.07.2023 , however, the FIR was got registered after the delay of 3 days i.e. on 19.07.2023. Learned counsel for the petitioner contends that as per the admitted case of the prosecution,

Mukhtiar Singh, co-accused had given a blow with his dang on the head of Amarjit Kaur and as per the MLR (Annexure P-2), there is only one injury on the head of Amarjit Kaur. Learned counsel contends that the complainant has further alleged that the petitioner had also given a blow with a reverse side of the spade on the head of Amarjit Kaur. He further contends that the same injury has already been attributed to Mukhtiar Singh, who has been granted the concession of regular bail. Learned counsel further contends that even a cross version in the shape of GD No.31 dated 17.10.2023 under Sections 365, 379, 323, 325, 148, 149 of IPC was also registered against the present complainant party (Annexure P-4) and the question of aggressor is yet to be decided by the trial Court. He further contends that the custodial interrogation of the petitioner may not be required at this stage.

4. On the other hand, learned State counsel assisted by learned counsel for the complainant have vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the injury, which was attributed to the present petitioner in the present case, has been declared to be dangerous to life. However, he could not deny the fact that the same injury is attributed to Mukhtiar Singh also, who has been granted the concession of regular bail in the present case.

5. I have heard learned counsel for the parties and perused the record.

6. It is apparent from the record that the incident was reported to the police by the complainant after 3 days and there are chances that embellishments might have crept in the version of the prosecution. Still further, the injury, which is attributed to the present petitioner, is also stated to have been caused by Mukhtiar Singh, co-accused, who has been enlarged on bail by

this Court. Thus, the custody of the petitioner may not be required at this stage.

7. Without commenting on the merits of the case, the present petition is allowed. The petitioner is granted concession of anticipatory bail, subject to the conditions as provided under Section 438(2) of the Cr.P.C. It will be open for the Investigating Officer to call the petitioner to join investigation, if so required, by issuing a written notice in this regard and he shall abide by the conditions mentioned in Section 438(2) of the Cr.P.C.

8. It is clarified that the observations, which have been made in the present order, are only for the limited purpose of the disposal of the bail application and the trial shall be decided by the learned trial Court by taking into consideration the evidence led by the parties.

08.02.2024
hemlata

(N.S.SHEKHAWAT)
JUDGE

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