

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

SR. No.216

CRM-M-8923-2024 (O&M)
Date of decision:19.03.2024

Karandeep Singh @ Karan

...Petitioner

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr. G.P.S. Ghuman, Advocate for the petitioner.
Mr. M.S. Bajwa, DAG, Punjab.N.S. SHEKHAWAT, J.

1. The present petition has been filed under Section 438 Cr.P.C. with a prayer to grant anticipatory bail to the petitioner in case FIR No.0093 dated 23.12.2023 registered under Sections 307/323/341/506/148/149 IPC at Police Station Bassi Pathana, District Fatehgarh Sahib.
2. The FIR in the present case was registered on the statement made by Sehajpreet Singh son of Manjeet Singh and the same has been reproduced as under:-

"....I am studying in 10+2 in Adarsh Public School Mandi Gobindgarh. On dated 19.12.2023, I went to the shop of Gagan Tattoos which is situated in Market Committee Office, Bassi Pathana near Kaler Medical Store on the first floor for getting print a Tattoo, then while I was removing my jacket, at about 5.20 PM, then upon the stairs of that shop which leads through 295 Gym, four boys came upstairs at the shop, who were carrying weapons in their hands. I Identified them. They were Vipan Kumar son of Om Parkash resident of Mohalla Gilzian, who was carrying an Iron Dah in his hand, Karan son of not known resident of Bassi Pathana, who was carrying iron pipe in his hand, Lovepreet Singh son of not known resident of Village Fatehpur Araian Police Station Bassi Pathana was carrying hand

pump handle in his hand and Gullu son of not known resident of Mohalla Gilzian Police Station Bassi Pathana was carrying baseball bat in his hand. They said to me that you would not be spared today and you would be killed. When I tried to run from the shop, the above named persons with an intention to kill, hit me on my head with an iron pipe from behind upon which I fell over the Iron shed of the shop and thereafter on the ground. All said persons also came down through staircase. When I tried to run, they encircled me and assaulted me with their weapons and I fell on the ground. While, I was lying down, they kept attacking me with their weapons and they also inflicted injuries on my back. I raised clamor of killed-killed. At the spot son of my maternal uncle Bhupinder Singh son of Jasvir Singh resident of Baba Ajit Singh Nagar Morinda Road Bassi Pathana reached and on seeing him, all of them fled from the spot along with their respective weapons in their vehicles. I was picked up from the spot by Bhupinder Singh and admitted me to Civil Hospital Bassi Pathana, where I was referred to Civil Hospital Fatehgarh Sahib. From where I was referred to GMCH SEC 32 CHD. After sector 32 Hospital Chandigarh, I am admitted in Bawa Hospital Bassi Pathana for treatment. The cause of grudge is that a brawl had taken place with Vipin Kumar around 02 years ago, in which a case was registered against us, due to that grudge Vipin Kumar and accomplices with common intention have inflicted injuries to me. I have got recorded my statement in my full senses in the presence of son of my maternal uncle Bhupinder Singh son of Jasvir Singh resident of Baba Ajit Singh Nagar, Morinda Road Bassi Patiala, which has been read over to me and accepted to be correct. Appropriate legal action may be initiated against the accused persons. SD/- Sehajpreet Singh, Statement confirmed by Sd/- Bhupinder Singh. SD/- Attested SD/- Harjit Singh SI Incharge Police Post City Bassi Pathana dated 23.12.2023.”

3. Learned counsel for the petitioner contends that the petitioner has been wrongly named in the present case. It has been falsely alleged that

PM on 19.12.2023, at the place of the alleged occurrence. He further contends that in fact the CCTV footage (Annexure P-2) clearly shows that at about 5.06 PM, the petitioner was at Barista Cafe, Rajpura. Even after that, the petitioner went to village Samdho Camp near Rajpura, District Patiala, which was at a distance of about 17 kilometers from the place of occurrence. Even the CCTV footage (Annexure P-7) clearly shows that the petitioner was present there from 5:54 PM till 6:12 PM. He further contends that the place of occurrence was at a distance of around 36 kilometers from the said place and the petitioner had not participated in the alleged occurrence. Learned counsel for the petitioner has placed reliance on various CCTV footages/screenshots in this regard.

4. On the other hand, an affidavit dated 12.03.2024 has been filed by DSP, Bassi Pathana Circle, District Fatehgarh Sahib in Court today and the same is taken on record.

5. Learned State Counsel submits that the petitioner has been specifically named in the FIR. The petitioner was carrying an iron pipe in his hand and had caused injury on the backside of the head of the complainant and due to this, the complainant fell down from the first floor. All the assailants also followed him to the ground floor and encircled him and assaulted him with their respective weapons. Learned Counsel for the State has also relied upon the photographs (Annexure R-2) to show that the petitioner was present at the place of occurrence and had actively participated in the commission of crime. Learned State Counsel further stated that even the police has recovered the CCTV footages of the occurrence, which clearly show that the complainant had fallen down from

the head of the complainant and after his fall, the complainant was beaten up by the accused including the present petitioner. He further contends that the weapons of offence are yet to be recovered from the present petitioner.

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

7. In the present case, the accused has primarily taken a plea of *alibi* and it has been stated that the petitioner was present at Barista Cafe Shop, Rajpura at about 5:02 PM, which is at a distance of about 36 kilometers from the place of occurrence. On the other hand, learned State Counsel submits that even the police had recovered a CCTV footage of the place of occurrence and the petitioner was clearly visible at the place of occurrence and had caused injuries to the complainant. Even it is apparent that the petitioner was the main accused in the present case, who had caused an injury with an iron pipe on the backside of the head of the complainant, who fell down on the ground floor from the first floor due to the injury caused by the present petitioner. Apart from that, the place of occurrence was hardly 30 kilometers from the place, where the Barista Cafe is situated. Still further the plea of *alibi* is a disputed question of fact, which can be adjudicated only during the course of trial. The CCTV footage of the occurrence has been obtained by the police during the course of investigation and this Court has no reason to doubt the said CCTV footage, which clearly proves the presence of petitioner at the place of occurrence. Moreover the petitioner has been specifically named by the complainant in the first version itself.

8. In view of the above-said discussion and keeping in view the gravity of the offence, petitioner is not entitled for relief of concession of

anticipatory bail at this stage. Apart from that, the weapon of offence is yet to be recovered from the present petitioner and his custodial interrogation will be required to effect the recovery from him. Thus, the present petition is dismissed. Pending application(s), if any, shall also stand disposed of.

19.03.2024
mks

(N.S. SHEKHAWAT)
JUDGE

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO