



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

CRM-M-17898-2024

Date of Decision:-19.07.2024

Gurjant Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Mr. Gaurav Kalsi, Advocate for the Petitioner.

Mr. Harkanwar Jeet Singh, AAG Punjab.

Mr. Vishal Sharda, 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.27 dated 06.03.2024 under Sections 323, 324, 326, 341, 506, 148, 149 IPC registered at Police Station City Patti, District Tarn Taran.

2. The present FIR came to be registered on the basis of the statement of complainant Nirvel Singh which reads as under:-

“ Statement of Jane Nirvel Singh Nambardar son of Surjan Singh son of Nand Singh resident of Lohka aged 64 years Mobile No. 981564 0466, stated that I am a resident of the said address. I am the current Namberdar of the village and I have two children. one boy and one girl. Both are married. On 04 03.2024 it was time around 4/04.30pm, I had gone to the Tehsil office Patti for my personal work, then Surjit Singh former Namberdar son of Santokh Singh. Daler Singh son of Santokh Singh son of Geja Singh and Santokh Singh son of



Geja Singh residents of Lauhka were there, who were in the O/o Tehsildar for registration of some sale deed. Surjit Singh, who is a former Namberdar, was witnessing them. then I said him that Surjit Singh, you have been suspended from the post of Namberdari in these days. Therefore, don't spoil someone's case by attesting the sale deed of some person of the village, then he said, I am not suspended. I asked him to show the proof, he did not have any prool, then having allercation with me, we came to the balcony of the Tehsildar office, then Daler Singh immediately called his village, asking to come to the Tehsildar office quickly with weapons that Nirvel Singh Namberdar have stopped our sale deed. He has to be taught a lesson. I started doing my household work at the Tehsil Office. then after about half a hour, Gurjant Singh son of Kabal Singh Armed with Datar, Kabal Singh son of Santokh Singh Armed with small Gandasi, Navkiran Singh son of Surjit Singh ex-Namberdar Armed with Datar came to the O/o Tehsildar. Upon seeing me. Daler Singh raised Lalkara that catch hold, today teach a lesson to Nirvel Namberdar for stopping our sale deed. Let him not escape today. Then Gurjant Singh son of Kabal Singh have inflicted two blows with his datar, which hit back side of my right leg below the knee. Nav Kiran Singh inflicted a datar blow on my person, which hit on my head. Kabal Singh inflicted a gandasi blow on my person, which hit on my right leg near the first injury. Surjit Singh Ex-Namberdar has inflicted a dang blow on my person by picking up from a cabin nearby. I raised my right arm for protection, then the dang hit on the elbow of right arm. Santokh Singh son of Geja Singh have hurled abuses to me. The blood was oozing from body and I raised alarm to save me, then upon seeing the people gathering there, the assailants fled away from the spot alongwith their respective weapons, while giving threats to kill. I called my home from someone's phone, then Major Singh son of Atma Singh, Tajinder Singh son of Jarnail Singh, residents of Lauhka came to me on the spot, who after arranging the conveyance got me admitted in Kairon Hospital for treatment. where I am under treatment. Our grudge is that I stopped the Ex- Namberdar Surjit Singh from spoiling the sale deed of some residents of the village, due to that all the



above stated in connivance with each other injured me. Legal action may be taken against the above stated. Statement is recorded, hears, is correct Sd/- Nirvail Singh. ”

3. The Counsel for the petitioner contends that the petitioner has been falsely implicated in the present case . The alleged occurrence took place on 4.3.2024 at about 4/4.30 pm and the FIR was registered only on 6.3.2024 at 11.50 pm. This delay was fatal to the prosecution case. In fact, the petitioner has been named after deliberation and consultation. It was a case of version and cross version but for certain reasons, the investigating agency had not lodged the cross version. As the petitioner had already joined the investigation, he was entitled to the concession of anticipatory bail.

5. The Counsel for the State on the other hand contends that the petitioner was one of the main accused having inflicted a datar blow on the leg of the injured causing a fracture. This injury was a grievous injury attracting Section 326 IPC. During the course of the investigation it transpired that it was the petitioner party which had attacked the complainant side. As the offence was *prima facie* established, he was not entitled to the concession of bail.

6. The Counsel for the complainant while referring to his reply dated 5.7.2024 contends that the CCTV footage of the place of occurrence i.e. Tehsil Complex, Patti, District Tarn Taran would clearly go to show that it was the present petitioner along with the co-accused who come running and attacked the complainant. The accused firstly attacked the complainant with a *danda* and fist blows. Thereafter the petitioner went away from the spot and came back with a sharp edged weapon with which he gave injuries to the complainant and clearly the offence had been committed in a premeditated manner. As the offence under Section 326 IPC was *prima*



facie established, the custodial interrogation of the petitioner was necessary and therefore, he was not entitled to the concession of anticipatory bail even though he had joined investigation.

7. I have heard learned Counsel for the parties.

8. 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”.

9. Coming back to the facts of the case, a perusal of the FIR and the investigation conducted so far would clearly establish that the petitioner is one of the main accused. He along with his co-accused brutally attacked the complainant party causing grievous injury on the person of the complainant. Merely, because the petitioner has joined the investigation does not entitle him to the concession of anticipation bail , more so when the offence is *prima facie* established.

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

11. 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

July 19, 2024
Vinay

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