



CRM-M-30266-2024 (O&M)
CRM-M-30375-2024 (O&M)
CRM-M-30480-2024 (O&M)

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

1. CRM-M-30266-2024 (O&M)
Reserved on : 22.08.2024
Pronounced on: 29.08.2024

Avtar Singh and another Petitioners

VERSUS

State of Punjab Respondent

2. CRM-M-30375-2024 (O&M)

Manjit Singh Petitioner

VERSUS

State of Punjab Respondent

3. CRM-M-30480-2024 (O&M)

Jaspal Singh and another Petitioners

VERSUS

State of Punjab Respondent

CORAM: HON’BLE MS. JUSTICE KIRTI SINGH

Present: Mr. P.S. Hundal, Senior Advocate with
Mr. G.S. Hundal, Advocate and
Ms. Arshpreet Kaur, Advocate for the petitioner(s)
in CRM-M-30266-2024.

Mr. Pardeep Sharma, Advocate for the petitioner(s)
in CRM-M-30375 and 30480-2024.

Mr. Randhir Singh Thind, DAG, Punjab.

Mr. V.G. Jauhar, Advocate for the complainant.

KIRTI SINGH, J.

This common judgment shall decide the aforementioned
petitions, as they stem from the same First Information Report (FIR)



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No.17, dated 06.02.2024, under Sections 324, 323, 427 and 34 IPC and GDR No.032 dated 09.04.2024, under Sections 308, 325, 323, 148 and 149 IPC (Section 308 added later), Police Station Sadar Dhuri, District Sangrur (Punjab).

2. Apprehending their arrest the petitioners have filed these petitions under Section 438 Cr.P.C. for grant of anticipatory bail in abovesaid FIR.

3. The petitions qua Gurdeep Singh and Jatinder Singh stands infructuous as they both have been arrested on 03.08.2024.

4. Succinctly, the facts in brief are that cross case DDR No.12 dated 11.02.2024 registered under Sections 325, 323, 148 and 149 IPC in case FIR No.17, dated 06.02.2024, under Sections 324, 323, 427 and 34 IPC at Police Station, Sadar Dhuri was registered against Jatinder Singh @ Happy son of Avtar Singh, Harman Singh son of Gurdeep Singh, Jaspal Singh (petitioner), Avtar Singh (petitioner), Manjeet Singh (petitioner) and Gurdeep Singh sons of Karnail Singh residents of Dohlaon on the basis of statement of Kulwant Singh son of Nishan Singh resident of Dohla, Tehsil Dhuri, District Sangrur. He stated that he is doing the work of agriculture. They are two brothers and elder brother's name is Pargat Singh. His uncle's son Parminder Singh son of Ravinder Singh, resident of Dohla, who lives by constructing a house in his fields. They both are brothers and live in the village. The houses of Jatinder Singh alias Happy son of Avtar Singh etc. have been built on the passage going to their fields. This passage was previously unpaved. This passage was being paved by the B.D.P.O. and



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previously the work of this passage was being run near the house of Jatinder Singh alias Happy, due to this work the complainant, Parminder Singh, Pargat Singh and his father Nishan Singh were sitting near the tubewell motor. Panchayat Secretary Baljit Singh was also present there. Jatinder Singh alias Happy son Avtar Singh armed with iron rod, Harman son of Gurdeep Singh armed with iron rod, Jaspal Singh, Avtar Singh, Manjit Singh and Gurdeep Singh sons of Karnail Singh armed with sticks in their hands came at the spot, and at about 12 noon a dispute had arose with Jatinder Singh alias Happy. Thereafter, Panchayat Secretary Baljit Singh caught hold of his brother Pargat Singh by the arm and Jatinder Singh alias Happy gave an iron rod blow on his brother Pargat Singh, which hit on his head, due to which Pargat Singh fell down on the ground. Then Harman Singh hit him with an iron rod, which hit his teeth and when he fell down then all the remaining above persons gave leg and fist blows on him. On raising an alarm by Pargat Singh, they came forward and rescued him. The complainant and his uncle's son Parminder Singh arranged a vehicle and reached Civil Hospital Dhuri to admit Pargat Singh, where Harman Singh, Jatinder Singh alias Happy, Avtar Singh, Jaspal Singh, Manjit Singh and Gurdeep Singh above said were already standing with weapons and when the complainant started to get down from the vehicle, Jatinder Singh alias Happy hit him with his rod, which hit on his left arm and other persons inflicted injuries to him with sticks, which hit near the left ear, left wrist, index finger of right hand, on the back of right hand and then out of the fear, the complainant and others afraid and took Pargat Singh to the Government



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Hospital, Patiala. Next day on 07.02.2024, complainant's brother-in-law (Sandhu) Beant Singh son of Rajinder Singh resident of Pandta Khoshi District Patiala admitted the complainant to Civil Hospital Dhuri as he was having pain in his arm.

5. During the investigation of the cross case, a rough site plan of the place of occurrence was prepared. Statements of witnesses u/s 161 Cr.P.C. were recorded. MLR No.179/SSB/2024 of Kulwant was obtained, in which all of them 6 injuries were reported by the doctor to be caused by blunt weapon. Report regarding nature of injury was obtained and the doctor reported injury no.4 as grievous in nature and injuries no. 1,2,3,5 and 6 are simple in nature.

6. MLR No. KDK/05/2024/SGR of Pargat Singh was obtained, in which 2 injuries as blunt were reported by the doctor. Report regarding nature of injury was obtained and the doctor reported injury no.1 as dangerous to life and injury no.2 as simple in nature. On the basis of which, offence u/s 308 IPC was added on 09.04.2024. Accused Jatinder Singh @ Happy, Harman Singh, Jaspal Singh, Avtar Singh, Manjit Singh and Gurdip Singh were arrested on 26.03.2024 and were released on bail by Investigating Officer. Iron rods used in the crime were recovered from Jatinder Singh @ Happy and Harman Singh, Danda was recovered from Jaspal Singh, and one stick each were recovered from Avtar Singh, Manjit Singh and Gurdip Singh. However, after the addition of offence u/s 308 IPC, none of the accused could be arrested.



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7. On the other hand the main FIR no.17 dated 06.02.2024 u/s 324, 323, 427, 34 IPC P.S. Sadar Dhuri was registered against Kulwant Singh s/o Nishan Singh (present complainant), Parminder Singh s/o Kaka Singh, Pargat Singh s/o Nishan Singh and Nishan Singh s/o Surjit Singh residents of Dohla, District Sangrur on the basis of statement of present petitioner Jatinder Singh s/o Avtar Singh r/o Donia with the allegations that-

“I do the agricultural work, today the government was renovating the path leading to gaushala at our village Dohla. Secretary Baljit Singh had stopped it on 03.2.2024. On 06.02.2024 Secretary Baljit Singh had started the work. At that time Kulwant Singh son of Nishan Singh resident of Dohla, Parminder Singh son of Kaka Singh Sarparch, Pargat Singh son of Nishan Singh and Nishan Singh son of Surjit Singh residents of Dohla had stopped the work going on in front / of my house and then around 12 o'clock in the afternoon the known persons came on the spot, on which Kulwant Singh who had a Spade in his hands, Pargat Singh son of Nissan Singh who had a iron rod in his hand, Parmi der Singh son of Kaka Singh who had a spade in his hand and Nishan Singh son of Surjit Singh, who had an iron rod, had stopped the mason while working in front of my house. When I said to Kulwant Singh that why are you stopping the mason from working in front of my house, in the meantime the dispute had been taken place between us and on heard noise, my father Avtar Singh came on the spot. Then Kulwant Singh gave spade blow on the left side of my head and Kulwant Singh did second time blow, which hit on the left side of my head, in the meantime Pargat Singh gave iron rod blow, which hit on my right ear and then Nissan Singh caught hold me from behind and then Parminder Singh gave spade blow, which



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hit on my right arm and when my father Avtar Singh tried to save me, then they gave blow of Sabbal and iron rod, which hit on the back of the right shoulder and on the fingers of the right hand. After that, my uncle Gurdeep Singh by arranging a vehicle and got us admitted in Civil Hospital Dhuri for treatment. When we came down from the vehicle, then before us, Kulwant Singh, Parminder Singh above said were standing at Civil Hospital Dhuri, who on seeing my uncle Gurdeep Singh, Kulwant Singh gave spade blow, which hit him on the back of his head and Parminder Singh gave blow of handle of spade on his left thumb and right knee and broke the mirrors of the vehicle bearing no. PB-59B-5400 and then on raising raula by us so many people gathered at the spot. Then Kulwant Singh and Parminder Singh ran away from spot along with their weapons." MLR no.176/SSB/2024 of injured Jatinder Singh was obtained, in which 4 injuries i.e. injury no.1 and 2 as sharp and injuries no.3 and 4 as blunt were reported by the doctor. Report regarding nature of injury was obtained and the doctor declared all the four injuries as simple in nature. MLR no.177/SSB/2024 of injured Gurdeep Singh was obtained, in which 3 injuries i.e. injury no. 1 as sharp and injuries no. 2 and 3 as blunt were reported by the doctor. Report regarding nature of injury was obtained and the doctor declared all the three injuries as simple in nature. MLR no. 179/SSB/2024 of injured Avtar Singh was obtained, in which 4 injuries i.e. all the injuries as blunt were reported by the doctor. Report regarding nature of injury was obtained and the doctor declared all the four injuries as simple in nature."

That accused Kulwant Singh, Pargat Singh and Nishan Singh were arrested on 19.03.2024 and accused Parminder Singh was arrested on 06.04.2024. Accused persons did not get recovered the weapon used in the



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crime, so, offence u/s 201 IPC was added on 19.03.2024. On the completion of investigation challan against all the four accused will be presented in the Court.

8. The applications u/s 438 Cr.P.C filed by petitioners for the grant of anticipatory bail were dismissed by the Court of Ld. Judge, Special Court, Sangrur vide order dated 04.06.2024.

9. Learned Senior counsel has vehemently argued that during investigation of the case the Police decided to proceed against the petitioners and others vide G.D. No.12 dated 11.02.2024 with the result that the petitioners and others were arrested by the Police for offences under Sections 325, 323, 148, 149 I.P.C. but as the offences were bailable the petitioners and their co-accused were enlarged on bail by the Police in the Police Station. After about 2 months of the occurrence, the Police decided to add Section 308 I.P.C. in the case against the petitioners vide G.D. No. 32 dated 09.04.2024. Petitioner No.2 who is the author of the F.I.R. in this case has sustained four injuries on his person and injury No.1 was incised wound on the left fronto-parietal region and this was kept for Surgeon opinion, Injury No. 2 was incised wound on left fronto-parietal region near to Injury No.1. Injury No.3 was he felt pain in the right ear but no external injury, Injury No. 4 was an abrasion on the exterior surface of right forearm. However, companions of petitioner No.2, namely, his father Avtar Singh, his uncle Gurdeep Singh sustained injuries within the meaning of Section 323 I.P.C. at the hands of the accused of the F.I.R. case and complainant of the cross-case against the petitioners and others. Initially the petitioners had



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joined Police investigation and they were released on bail by the Police under Sections 325, 323, 148, 149 I.P.C.

10. Learned Senior counsel contends that a perusal of version of the complainant on the basis of which petitioners have been proceeded against would show that the complainant party were aggressors and had caused injuries to the petitioners and their co-accused Gurdeep Singh with sharp edged weapons.

It has also been contended that injury No.1 on the forehead of Pargat Singh (brother of Kulwant Singh complainant) will not be covered by Section 308 I.P.C. but will come within the mischief of Section 325 I.P.C. in view of para 11 of the Judgment rendered by Hon'ble Supreme Court in case ***"Jai Narain Mishra and others Vs. State of Bihar" - 1972 Criminal Appeals Reporter page 19"***

11. Learned State counsel and the counsel for the complainant have vehemently opposed the petitions and submit that in view of the serious allegations, the petitioners are not entitled to the concession of anticipatory bail. Learned counsel for the complainant submits that as stated on 06.02.2024 at around 12.00 P.M. injuries were given by the accused persons on the head and face of Pargat Singh. Subsequently the accused-petitioners and others had attacked Kulwant Singh in hospital and caused grievous injury on his person. Pargat Singh was immediately referred to Rajindra Hospital on 06.02.2024, where he was operated upon and treated for the head and face injuries. The injuries caused by the petitioners are dangerous to life.



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12. It has also been argued by the learned counsel for the complainant that the accusation of assaulting the victim Pargat Singh at the first instance and then assaulting Kulwant Singh at Civil Hospital by the accused aggressors speaks volumes about their conduct. Reliance has been placed upon the judgment rendered by Hon'ble Supreme Court in ***“Vivekanand Mishra Versus State of U.P., Criminal Appeal No. 1096 of 2022 (arising out of SLP (Crl.) No.6166 of 2022) decided on 29.7.2022”***.

13. Heard the rivals submissions made by learned counsel for the parties and have perused the relevant records.

14. In ***Sushila Aggarwal v. State (NCT of Delhi) (2018) 7 SCC 731***, the Constitution Bench reaffirmed that when considering applications for anticipatory bail, courts should consider factors such as the nature and gravity of the offences, the role attributed to the applicant, and the specific facts of the case.

15. The Hon'ble Supreme Court in ***“Vivekanand Mishra Versus State of U.P., Criminal Appeal No. 1096 of 2022 (arising out of SLP (Crl.) No.6166 of 2022) decided on 29.7.2022”*** has held as under:-

“12. The power to grant bail under [Section 438](#) of the Cr.P.C may be discretionary. However, discretion to grant bail has to be exercised judiciously, as held by this Court in ***Ram Govind Upadhyay v. Sudarshan Singh and Ors. reported in (2002) 3 SCC 598***. speaking for the Court, Umesh Chandra Banerjee, J. said:



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“3. Grant of bail though being a discretionary order —but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts, however, do always vary from case to case. While placement of the accused in the society, though may be considered but that by itself cannot be a guiding factor in the matter of grant of bail and the same should and ought always to be coupled with other circumstances warranting the grant of bail. The nature of the offence is one of the basic considerations for the grant of bail more heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter.

4. Apart from the above, certain other which may be attributed to be relevant considerations may also be noticed at this juncture, though however, the same are only illustrative and not exhaustive, neither there can be any. The considerations being:

(a) While granting bail the court has to keep in mind not only the nature of the accusations, but the severity of the punishment, if the accusation entails a conviction and the nature of evidence in support of the accusations.

(b) Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the court in the matter of grant of bail.

(c) While it is not expected to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but there ought always to be a prima facie satisfaction of the court in support of the charge.



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(d) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail, and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”

13. In **Prasanta Kumar Sarkar v. Ashis Chatterjee and Anr** reported in (2010) 14 SCC 496, D.K. Jain, J., speaking for a two Judge Bench of this Court laid down the principles for examining the correctness of orders granting bail to an accused. This Court held:

“9. ...It is trite that this Court does not, normally, interfere with an order [***Ashish Chatterjee v. State of W.B., CRM No. 272 of 2010, order dated 1112010 (Cal)***] passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

(i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;

(ii) nature and gravity of the accusation;

(iii) severity of the punishment in the event of conviction;

(iv) danger of the accused absconding or fleeing, if released on bail;

(v) character, behaviour, means, position and standing of the accused;

(vi) likelihood of the offence being repeated;

(vii) reasonable apprehension of the witnesses being influenced; and



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(viii) danger, of course, of justice being thwarted by grant of bail.

10. It is manifest that if the High Court does not advert to these relevant considerations and mechanically grants bail, the said order would suffer from the vice of nonapplication of mind, rendering it to be illegal.”

14. In **Mahipal v. Rajesh Kumar and Anr.** reported in (2020) 2 SCC 118, this Court held:

“14. The provision for an accused to be released on bail touches upon the liberty of an individual. It is for this reason that this Court does not ordinarily interfere with an order of the High Court granting bail. However, where the discretion of the High Court to grant bail has been exercised without the due application of mind or in contravention of the directions of this Court, such an order granting bail is liable to be set aside. The Court is required to factor, amongst other things, a prima facie view that the accused had committed the offence, the nature and gravity of the offence and the likelihood of the accused obstructing the proceedings of the trial in any manner or evading the course of justice. The provision for being released on bail draws an appropriate balance between public interest in the administration of justice and the protection of individual liberty pending adjudication of the case. However, the grant of bail is to be secured within the bounds of the law and in compliance with the conditions laid down by this Court. It is for this reason that a court must balance numerous factors that guide the exercise of the discretionary power to grant bail on a casebycase basis. Inherent in this determination is whether, on an analysis of the record, it appears that there is a prima facie or reasonable cause to believe that the accused had committed the crime. It is not relevant at this stage for the court to examine in detail the evidence on record to come to a conclusive finding.”



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16. In *Siddharam Satlingappa Mhetra v. State of Maharashtra & Ors.* reported in (2011) 1 SCC 694) rendered in the context of the discretion to grant Anticipatory Bail under Section 438, this Court advocated the need to balance individual personal liberty with societal interest. This Court held:

“84. Just as liberty is precious to an individual, so is the society’s interest in maintenance of peace, law and order. Both are equally important.”

17. There is no straight jacket formula for grant or refusal of bail. Seriousness of the charge is undoubtedly one of the relevant considerations while considering bail applications. All the relevant factors have to be weighed by the Court considering an application for bail, including the gravity of the offence, the evidence and material which prima facie show the involvement of applicant for bail in the offence alleged, the extent of involvement of the applicant for bail, in the offence alleged, possibility of the applicant accused absconding or otherwise defeating or delaying the course of justice, reasonable apprehension of witnesses being threatened or influenced or of evidence being tampered with, and danger to the safety of the victim (if alive), the complainant, their relatives, friends or other witnesses.”

16. The judgment in *Jai Narain Mishra (supra)* referred by learned Senior counsel appearing for the petitioners is not applicable in the present case as in that case the applicant was convicted under Section 307 and sentenced for 15 years rigorous imprisonment and subsequently the sentence was reduced under Section 326 to a period of two years rigorous imprisonment.

17. To decide the present petitions, it is necessary to discuss the injuries caused by the petitioners on the persons of the injured. In the



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Radiographical examination (NCCT of the head) of Pargat Singh following injuries were found:-

- Comminuted fracture of frontal bone on right side seen.
- Linear undisplaced fracture of right parietal bone seen.
- Linear undisplaced fracture of left parietal bone extending to left temporal bone seen.
- Fracture of right greater wing of sphenoid seen.
- Fracture of lateral wall and roof of right orbit seen.
- Fracture of anterior wall of right frontal sinus seen.
- Fracture of anterior and posterior walls of right maxillary sinus seen.

The Board of Doctors found said injuries to be dangerous to life. All the accused persons had caused injuries to Pargat Singh as enunciated in the statement. The report of the Radio Diagnosis dated 10.02.2024 and the reports of Board of Doctors declaring the head injuries to be dangerous to life are appended as Annexures R-1 to R-3. The photographs showing the condition of Pargat Singh injured are appended herewith as Annexure P-4. The seat of the injury clearly show the intent of the accused persons. The gravity with which the injured have been attacked, being on the vital part of the body clearly shows that the accused persons intended to kill injured Pargat Singh. Not only this, the accused persons did not hold themselves and went to hospital to inflict injuries on Kulwant Singh injured.

18. Both Pargat Singh and Kulwant Singh were given injuries by

the accused aggressors. The role of the each accused is as under:-



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a) Jatinder Singh @ Happy son of Avtar Singh

Role: Hit with rod on the head of Pargat Singh. Attacked outside hospital Dhuri on the left hand of Kulwant Singh.

b) Harman Singh son of Gurdeep Singh

Role: Hit with rod on the face of Pargat Singh. Attacked outside hospital Dhuri on Kulwant Singh.

c) Jaspal Singh son of Karnail Singh

Role: Gave kick blows on person Pargat Singh, as he fell down on the ground after the blow of Jatinder Singh. Attacked outside hospital Dhuri on Kulwant Singh.

d) Avtar Singh son of Karnail Singh

Role: Gave kick blows on Pargat Singh, as he fell down on the ground after the blow of Jatinder Singh. Attacked outside hospital Dhuri on Kulwant Singh.

e) Manjit Singh son of Karnail Singh

Role: Gave kick blows on Pargat Singh, as he fell down on the ground after the blow of Jatinder Singh. Attacked outside hospital Dhuri on Kulwant Singh

f) Gurdeep Singh son of Karnail Singh

Role: Gave kick blows on Pargat Singh, as he fell down on the ground after the blow of Jatinder Singh. Attacked outside hospital Dhuri on Kulwant Singh

g) Baljit Singh, General Secretary

Role: Caught Pargat Singh so that Jatinder Singh could hit him

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19. Keeping in view the totality of the facts and the submissions made hereinabove, this Court is of the opinion that present petitions are found to be bereft of any merit and without any substance. A perusal of the record and status report filed by the State, it is apparent that the petitioners are direct participants in the crime in which one of the injured had suffered grievous injury on his head which was declared dangerous to life.

20. In view of the aforementioned facts and circumstances as well as in view of the status report filed by learned State counsel, this Court does not deem appropriate to interfere in the matter so as to grant the concession of anticipatory bail to the petitioners at this stage.

21. Dismissed.

(KIRTI SINGH)
JUDGE

29.08.2024
Kapil

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