



CRM-M-31323-2024

-1-

(218)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-31323-2024

Date of decision :18.07.2024

JASVEER SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Jaskirat Singh Dhaliwal, Advocate
for the petitioner.

Ms. Seema Sandhu, Addl. A.G., Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 438 of Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No.67 dated 16.04.2024 (Annexure P-1) registered under Sections 323, 324, 34 IPC and Sections 325 and 326 IPC added subsequently vide DDR No.25 dated 20.04.2024 (Annexure P-2) at Police Station Lambi, District Sri Muktsar Sahib.

2. The present FIR came to be registered at the instance of Sarabjit Singh son of Babu Singh and the same reads as under:-

“Statement of Sarabjit Singh S/o Babu Singh resident of village Bhittiwala age about 60 years Mobile Number 62847-30330 stated that I am a resident of the said address and do agricultural work. We are four brothers. I was married to Karamjeet Kaur D/o Malkeet Singh Kaliraun, Matili (Rajasthan). I have no



CRM-M-31323-2024

-2-

children. I have about 3,1/2 acres of land on Sakhwala Road. On 15.04.2024, I was going from my house to my farm which is on Sikhwala Road, when I reached Sikhwala Road about 02 km from the village, at about 09:00 AM, Harpreet Singh S/o Chanan Singh carrying a Daang, Boota Singh S/o Kulwant Singh carrying Daang were already present there. When I stopped near them, these two people started arguing with me, then in the meantime a white Alto Car came in which Jasvir Singh S/o Kulwant Singh carrying a Gandasa and Khushiya S/o Jasvir Singh came out of the car, then Khushiya raised a lalkaara and said that catch him and teach him a lesson of the old fight. In the mean time Jasvir Singh S/o Kulwant Singh hit me with the gandaasa which hit on my the middle of my head, then again, gave another blow which hit on the wrist of my left arm. Then Harpreet Singh S/o Chanan Singh hit me with his Daang which hit on the upper side of the wrist of my right arm. Then Boota Singh S/o Kulwant Singh hit me with the Daang which hit on the calf of right leg and then Boota Singh hit again which hit above my left eye and I fell on the ground. While I was lying on the ground the above mentioned persons pulled me. Then my nephew Kuldeep Singh S/o Balwinder Singh came to the spot. After seeing them, the attackers left on their car with their weapons. The cause of enmity is that there was a fight between our people some time ago due to which the above mentioned persons have caused injuries to me by being in connivance with each other. Then my nephew arranged a vehicle and got me admitted to CH Lambi. Doctor Sahib referred me to AIIMS Hospital Bathinda as I had many injuries, where



CRM-M-31323-2024

-3-

I am undergoing treatment. Appropriate legal action should be taken against them. LTI/- Sarabjit Singh.”

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. All the co-accused of the petitioner had been granted the concession of anticipatory bail. As the petitioner was ready and willing to join investigation, he was also entitled to the similar relief.

4. A reply dated 17.07.2024 by way of an affidavit of Jaspal Singh Dhaliwal, PPS, Deputy Superintendent of Police, Sri Muktsar Sahib (Additional Charge) Sub Division Lambi, District Sri Muktsar Sahib has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. While referring to the reply, she contends that the petitioner was the main accused inasmuch as he had given a Gandasi blow on the middle of the head from the sharp side and another blow on the left wrist. One out of the 2 injuries caused by the petitioner to the complainant was declared to be grievous. As the offence was *prima facie* established and the recovery of a Gandasa was to be effected from him, he was not entitled to the concession of anticipatory bail.

5. I have heard the learned counsel for the parties.

6. The Hon'ble Supreme Court in the case of ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr.*** 2022 Live Law (SC) 870 held that merely because custodial interrogation was not required by itself



CRM-M-31323-2024

-4-

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.

7. A perusal of the FIR would reveal that specific allegations have been levelled against the petitioner that he had given a Gandasa blow on the middle of the head of the complainant. This injury with a sharp edged weapon has been declared to be grievous and Section 326 IPC has been added to the FIR. The case of the co-accused namely, Harpreet Singh is on a different footing inasmuch as, he has been attributed a grievous injury with a blunt weapon attracting Section 325 IPC. As the offence is *prima facie* established and the recovery of a Gandasa is to be effected from the petitioner, his custodial interrogation is certainly necessary.

**CRM-M-31323-2024****-6-**

8. In view of the aforementioned discussion, I find no merit in the present petition. Therefore, the same stands dismissed.

9. However, the observations made hereinabove are only for the purposes of deciding this bail petition and the Trial Court is free to adjudicate upon the matter on the basis of the evidence led before it uninfluenced by any such observations made herein.

(JASJIT SINGH BEDI)
JUDGE

18.07.2024
JITESH

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