

**CRM-M-33825-2024****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.****Sr. No.208****Case No. : CRM-M-33825-2024****Decided On : September 03, 2024**

Bharat @ Bharat Kumar Petitioner

vs.

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Kuldip Singh, Advocate
for the petitioner.

Ms. Manjot Kaur, AAG, Punjab.

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GURBIR SINGH, J. :

1. The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.76, dated 14.09.2021, under Sections 323, 324, 341, 148, 149 IPC (Section 307 added later on), registered at Police Station City-2, Abohar, District Fazilka.

2. The case in question was registered on the statement of Aniket. As per the allegations, petitioner and other persons named in the FIR were friends. About 2-3 months prior to lodging of FIR, an altercation took place between the complainant and his cousin brother namely Pradeep Kumar, with one Sunil Bhayia and Kannad. On 12.09.2021, the complainant Aniket and his cousin Pradeep Kumar closed their fruit shop and were returning to their house on motorcycle at about 09:30 PM. When they reached near



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‘Monu Juice Bhandar’, then Sunil Bhayia and other co-accused, who were present there, stopped their motorcycle. Sunil Bhayia and Kannad were armed with *kapas*. They both told their friends to catch the complainant and his cousin and they should not escape. Then all of them attacked the complainant and his cousin Pradeep Kumar. Sunil Bhayia gave blow of his *kapa* on the head of Pradeep Kumar, hitting on his back side. Kannad gave blow of his *kapa* to the complainant, hitting on the centre of his forehead and Sunil Bhayia also gave *kapa* blow to him which hit on the left arm near wrist. They both ran away from the spot to save their lives. All the accused persons chased them and started throwing bricks and brick bats on them. One brick hit on the right side ankle of the complainant and after reaching near houses, they fell down.

3. Learned counsel for the petitioner has argued that the petitioner was not armed with any weapon. No injury is attributed to the petitioner. The injury attributed to Pradeep Kumar is attributed to Sunil Bhayia. He has further submitted that interim bail was granted to the petitioner by the learned Additional Sessions Judge, Fazilka but he could not join investigation. So, the application for anticipatory bail was dismissed by the learned Additional Sessions Judge, Fazilka.

4. Learned State counsel has filed the Status Report by way of affidavit of Arun Mundan, PPS, Deputy Superintendent of Police, Sub-Division Abohar, District Fazilka, on behalf of respondent – State of Punjab. She has fairly admitted that the petitioner was empty-handed. He was

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member of unlawful assembly, who made an attempt to kill the cousin brother of the complainant and also caused injuries to the complainant.

5. I have heard the submissions made by learned counsel for the parties and have also gone through the case file.

6. The petitioner was not armed with any weapon and no injury has been attributed to the petitioner. At the most, he was a member of unlawful assembly and other members of the said assembly had caused injuries to the complainant and his cousin brother. No recovery is to be effected from the petitioner. The Court of learned Additional Sessions Judge, Fazilka had granted interim bail to the petitioner but on the next date, neither petitioner nor his counsel was present in the Court and the police made statement that petitioner had failed to join the investigation till date. The application moved by the petitioner for grant of anticipatory bail was dismissed.

7. Keeping in view the role of the petitioner and no recovery is to be effected from him, custodial interrogation of the petitioner would not serve any useful purpose.

8. Accordingly, the present petition is allowed and it is directed that in the eventuality of arrest of the petitioner in the instant case, he shall be enlarged on bail subject to his furnishing personal bond/surety bond to the satisfaction of Investigating Officer/Arresting Officer. The petitioner shall join the investigation as and when called upon to do so by the Investigating Agency. The petitioner shall abide by the conditions as laid down under Section 438(2) Cr.P.C. in letter and spirit.

9. However, nothing observed herein above shall be construed to be an expression of opinion on the merits of the case. The observations recorded above are only for the purpose of deciding the present bail petition.
10. Pending applications, if any, shall stand disposed of along with this judgment.

September 03, 2024

monika

(GURBIR SINGH)

JUDGE

<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>