



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

102

CRM-M-38166-2024
DATE OF DECISION: 07.08.2024

SUMIT ...PETITIONER
Versus

STATE OF PUNJAB AND ORS. ... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. B.S. Baiiragi, Advocate for the petitioner(s).
Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

The jurisdiction of this Court under Section 438 Cr.P.C., has been invoked seeking the concession for the grant of anticipatory bail to the petitioner in FIR No.75 dated 09.05.2024, under Sections 323/324/506/148 and 149 IPC, 1860 (Sections 325 and 326 IPC added later on) registered at Police Station City South, District Moga.

2. Prosecution story set up in the present case as per the version in the FIR read as under :-

‘Stated that I am resident of above mentioned address. I work as a laborer. On 07.05.2024, it will be around 08.30 in the evening that outside my house Sukhdeep Singh alias Prince son of Jaswinder Singh resident of New Arjan Dev Nagar Moga, Akash son of Bangar Singh resident of Sadha Wali Basti armed Kirpan, Harman Singh son of Unknown residents of Sadha Wali Basti Armed Khanda and Balli Son Unknown residents of Sadha Wali Basti armed with Dah and along with 15/20 unknown men, they used to come in front of the door of my house and used to abuse me and said that last year on Jagran we inflicted injuries to you, and what have you done with us?, So I went out after opening the



door, then saw Sukhdeep Singh aka Prince raised lalkara to catch me, then Akash above hit me with his armed kirpan directly on the back side of my fore head and I fell down. When I fell down, they attacked me on the back of my neck and on my body from many places, then Aswani Kumar also came there who tried to rescue me. Then above Balli hit on my son with his armed Dah which hit on the forehead of my son on the below and upper part of his left eye. Then my son also fell down. And unknown persons beat me and my son. We raised a loud cry and accused run away with their respective weapons. And the person namely Om Prakash son of Jagdish Roy residing in our street arranged vehicle and got me and my boy admitted at the Civil Hospital Moga. Where Dr. Sahib is treating us. Cause of fight is that, on last year we fight with each other on Jagrata, due to which all of them have injured me and my son. That my son have more injuries so he has been referred to Faridkot. Statement is correct after reading and listening. Please take action. SD/ Sant Ram The said verification correct/- Jaswant Singh ASI PS City south moga 09.05.2024 police action..’

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. He submits that the petitioner was not named in the FIR at the initial stage which was lodged at the statement of son of the complainant and subsequently, after almost one month, the name of the petitioner was disclosed by the complainant himself and as such he has been nominated as an accused without having any incriminating material against him to attract offences under Sections 323/324/506/148 and 149 IPC.

On behalf of the State

Learned State Counsel appearing on advance notice on



instructions from ASI Ashok Kumar opposes the prayer for grant of anticipatory bail by stating that specific injury i.e. injury No.1 has been attributed to the petitioner wherein he hit with Dah on the left eye and this injury was kept in observation and later Section 326 IPC was added.

4. **Analysis**

Be that as it may, on a specific query from the Court, learned State Counsel has failed to put forth from medical legal report that injury attributed to the petitioner is grievous in nature but attracts Section 326 and 325 IPC and the injury was kept under observation. Another aspect which this Court cannot lose sight of the fact that complainant's son has made a statement on the basis of which the present FIR has been lodged in which the petitioner was not at all named, what to talk of his overt act but subsequently, after one month as an afterthought the complainant seems to have nominated him as an accused in the instant FIR.

As far as the contention of learned State Counsel is concerned qua the injury given by petitioner, this very fact has not been denied in toto by counsel for the petitioner stating that the petitioner has no concern with the name shown as Balli as the petitioner is known with name Sumit in the society as well as in his friend circle.

Without adverting on the merits of the case this Court prima facie finds no reason to deny the petitioner the concession of anticipatory bail wherein the petitioner has bona fide intentions and is willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency in time.



5. Decision

Hence, in view of the admitted set of circumstances before this Court, the petitioner is directed to be released on anticipatory bail subject to his joining investigation and reporting to the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the terms and conditions as envisaged under Section 438(2) of Cr.P.C which are reproduced below :-

- (i) a condition that the person shall make himself available for interrogation by a police officer as and when required;*
- (ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;*
- (iii) a condition that the person shall not leave India without the previous permission of the Court;*
- (iv) such other condition as may be imposed under sub-section (3) of Section 437, as if the bail were granted under that section.*

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within one week, the order passed by this Court today shall automatically stands cancelled.

The petition in the aforesaid terms stands allowed.

(SANDEEP MOUDGIL)
JUDGE

07.08.2024
anuradha

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