

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

210

CRM-M-44119-2023

Date of decision: 15.01.2024

Lovely Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Naveen Bawa, Advocate
for the petitioner.

Mr. Arun Luthra, DAG, Punjab.

Mr. Malkiat S. Hundal, Advocate
for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in the instant (second) petition is seeking the concession of anticipatory bail under Section 438 of the Cr.P.C. in case FIR No.0105 dated 30.05.2023 under Sections 307, 324, 323, 506, 148, 149 of the IPC and Section 25 of the Arms Act, 1959 (Section 201 of the IPC added lateron), registered at Police Station Ajnala, District Amritsar.

2. Learned counsel for the petitioner submits that in compliance of following order dated 11.10.2023 passed by a Coordinate Bench of this Court, the petitioner has joined investigation and cooperated with the investigating agency:-

“Inter alia contends that on a purported information of complainant, FIR in question has been registered after a delay of three months. No case is made out against the petitioner and he has been falsely implicated. Petitioner has nothing to do with the alleged crime.”

2A. Learned counsel has further submitted that in fact the FIR in question had been registered as a counter blast to the occurrence which had taken place between the parties prior to the registration of the FIR in question. It has also been submitted that the delay in the lodging of the FIR lends credence to an embroidered version having been brought forth by the complainant. Learned counsel has also referred to the report of Department of Forensic Medicine & Toxicology, Govt. Medical College, Amritsar (Annexure P-4) wherein opinion of the doctor was that injury No.1 appeared to be doubtful.

3. Learned State counsel assisted by learned counsel for the complainant, has not disputed the factum of the petitioner having joined investigation, however, it has been submitted by learned State counsel on instructions from ASI Prabhjit Singh, that the petitioner had not fully cooperated with the investigating agency inasmuch as the firearm used in the occurrence in question had not been recovered till now. Learned State counsel has also filed a copy of MLR of the injured dated 27.03.2023 which is taken on record subject to all just exceptions wherein the following injuries were found on the person of injured Varinder Singh:-

Injuries	Injury No.
PATIENT COMPLAINS OF PAIN IN THE LOWER BACK. NO EXTERNAL INJURY IS SEEN.	3
AN IRREGULAR LACERATED WOUND OF SIZE 0.9 X 0.9 CM IS PRESENT ON THE BACK OF THE LEFT ARM, PLACED 14.5 CM ABOVE THE LEFT ELBOW JOINT. THE MARGINS OF THE WOUND ARE IRREGULAR AND INVERTED SURROUNDING AREA IS BURNT AND BLACK DISCOLORATION IS PRESENT ON THE MARGINS. FRESH BLOOD ADMIXED CLOTTED BLOOD IS PRESENT. DEPTH NOT PROBED, PAIN AND TENDERNESS PRESENT.	1

A LINEAR INCISED WOUND OF SIZE 0.9 X 0.2 CM IS PRESENT ON THE LEFT SIDE OF THE HEAD, MIDDLE OF THE WOUND IS PLACED 6.1 CM ABOVE THE TOP OF THE LEFT PINNA MARGINS ARE REGULAR AND CLEAN CUT. FRESH BLOOD ADMIXED CLOTTED BLOOD IS PRESENT. DEPTH NOT PROBED. PAIN AND TENDERNESS PRESENT.	2
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4. I have heard learned counsel for the parties and perused the relevant material on record.

5. A perusal of the MLR which has been placed on record today reveals that it is clearly mentioned therein that on account of the assault which took place a few hours prior thereto at about 06:30 P.M., the injured had been admitted with injuries which have been reproduced hereinabove. As per the MLR injury No.1 is an inverted and lacerated wound with blackening present on the margins. Prima facie this Court has no hesitation to observe that the said injury is a firearm injury. Furthermore, a perusal of the FIR in question reveals that it was a premediated attack. The injury inflicted with a datar on the head of the injured, though, not by the petitioner but by co-accused which also has been mentioned in the MLR prima facie corroborates the ocular testimony. The contention of the learned counsel for the petitioner about the delay in the lodging of the FIR would not come to his rescue as the injured was removed to the hospital without any delay within a few hours of the occurrence in question. In the facts and circumstances as enumerated hereinabove, this Court thus, does not deem it fit to extend the extraordinary concession of anticipatory bail to the petitioner.

6. Accordingly, the petition is hereby dismissed.

7. However, it is made clear that anything observed

hereinabove shall not be construed to be an expression of opinion on the merits of the case.

15.01.2024

(MANJARI NEHRU KAUL)

Vinay

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No