

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

103

CRM-M-43215-2024
DATE OF DECISION: 03.09.2024

KASHMIR SINGH

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. K.S. Sekhon, Advocate for the petitioner(s).

Mr. Jaspal Singh Guru, AAG, 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.21 dated 25.04.2024, under Sections 324/323/148/149 IPC, 1860 (Section 308 IPC added later on) registered at Police Station Amir Khas, District Fazilka.

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

‘FIR contents: Statement of Surinder Pal alias Surinder s/o Hari Chand r/o Chak Kathgarh alias Droga aged about 45 years M. NO. 9781223314 stated that I am a resident of the above address and agriculturist by profession. On 23.4.2024, I was making straw from the grain of wheat in my field and taking it to my home. It would be 9:45 PM when I sent the trolley full of straw to my house through my labour and I was riding on my



motorcycle Paltina was approaching on the road from the field, then suddenly in front of me the motorcycle rider Raj Singh alias Raju s/o Kashmir Singh and Dhani Nihanga Wali Dakhli Chak Kathgarh alias Droga came on and raised alarm that caught hold of him, he should not be spared. Meanwhile pillion rider Karan Singh s/o Laddu Singh r/o village Amir Khas, came down and gave me sword blow from reverse side which hit on left side of my head above forehead then Raj Singh @ Raju above gave me Kapa blow from reverse side which hit on the right side of my head. The light of my motorcycle was on at that time and I fell down, they inflicted injuries while I was lying on earth, I raised alarm MARTA-MARTA, meanwhile, my uncle Om Prakash s/o Lachhman Das and Ajay Kumar s/o Om Prakash r/o Chak Kathgarh alias Droga who were coming to the village from Jalalabad city happened to hear my voice and came at spot. When they started to release me from the clutches of them, then Jasvir Singh alias Jassi s/o Balwant Singh armed with Kapa, Balwant Singh s/o Harnam Singh armed with Baseball, Manjit Singh s/o Bachan Singh armed with stick, Sona Singh s/o Kashmir Singh armed with Tregal(an agricultural instrument), Kashmir Singh s/o Uttar Singh armed with stick and 5/7 unidentified men who were holding weapons in their hands came and challenging them to catch them and let them taste the fun of scuffling with our boys. When he came forward to save them, all of them inflicted injuries upon person of my uncle Om Prakash too. All these persons are r/o Dhani Nihanga Wali Dakhli Chak Kathgarh alias Droga near my village. I can recognize these 5/7 unknown persons who were along with them when they appear before me. Then, seeing my family members and the villagers coming, all the people ran away with their weapons. Then Ajay Kumar s/o Om Prakash r/o Chak Kathgarh alias Droga arranged a convenance for both of us and got admitted to Civil Hospital Jalalabad. Where the doctor referred us to Sri Guru Gobind Singh Medical College, Faridkot for advanced



treatment, where we are getting treatment. The motive is that the road of our village is often occupied by robbers at night. Because of this, they beat me. Scribed a statement to yourself. Found correct. Action should be taken. Signature in Punjabi Surinder Pal above, Affirmation Statement Signature in English Ajay Kumar s/o Om Prakash r/o Chak Kathgarh alias Droga, Attestation Sukhdev Singh ASI PS Amir Khas, Dated 25.4.2024 Police proceeding: Today MLR NO.63/JK/2024 /JBD/CHC dated 23.4.2024 pertains to injured Surinder s/o Hari Chand and MLR NO. 64/JK/2024/JBD/CHC dated 23.4.2024 pertains to Om Prakash s/o Lachhman Das r/o village Chak Kathgarh was received about admission at Civil Hospital Jalalabad due to injuries but today received a call from mobile number 8146011359 made by Ajay Kumar s/o Om Prakash r/o Chak Kathgar alias Daroga at PS that after cutting MLR, my father Om Prakash and Surinder Pal above were referred to Sri Guru Gobind Singh Medical College, Faridkot, who are currently admitted in Faridkot for treatment, then I, ASI after reaching GGSMC Faridkot with fellow employees, written opinion was obtained from various doctors regarding recording the statements of injured Surinder Pal alias Surinder and Om Prakash above, they answered as both of them said injured was capable of giving a statement, on which I, ASI along with fellow employees reached near bed of injured Om Parkash where he was present talking to his relative who asked him to scribe his statement, who told that my pain is too much, I cannot suffered a statement today, Om Prakash put his signature and his son Ajay Kumar testifying as witness, I ASI along with fellow employees accompanied by Ajay Kumar, reached the bedside of injured Surinder Pal alias Surinder above to obtain his statement, where injured Surinder Pal alias Surinder was present talking to his bedside relative. Who recorded his above statement before me, which was read out. who, after hearing it, accepted it as true and signed his statement in Punjabi, Ajay Kumar testified as



witness, which I verified. MLR NO. 64/ JK/2024/JBD/CHC dated 23.4.2024 pertains to Om parkash has shown total 3 injuries out of which injury No. 1 and 2 kept under x-ray and injury No. 3 simple, It is shown that out of which injury no.1 Cannot be Asxirated and injury no.2 sharp and injury no.3 can be inflicted by blunt weapon and MLR NO. 63/JK/2024/JBD/CHC Dated 23.4.2024 of injured Surinder Pal alias Surinder s/o Hari Chand has been shown to have 2 injuries with blunt weapons and both injuries kept under X-rays. According to the statement and report from the doctor, offense u/s 324,323,148,149 IPC is made out. Action will be taken as the case may be after result of Injuries kept under X-ray. For registration of FIR statement by hand PHG Udeek Chand 23503 against Raj Singh alias Raju s/o Kashmir Singh, Jasvir Singh alias Jassi s/o Balwant Singh, Balwant Singh s/o Harnam Singh, Manjit Singh s/o Bachan Singh, Sona Singh s/o Kashmir Singh, Kashmir Singh s/o Uttar Singh r/o Dhani Nihanga Wali Dakhli Chak Kathgarh alias Droga, Karan Singh s/o Laddu Singh r/o Village Ameer Khas and 5/7 unidentified men are sent to police station.'

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case and has not committed any offence as alleged in the instant FIR. He submits that no specific role has been attributed to the petitioner and there is unexplained delay of 2 days in lodging the instant FIR. He points out that there is no evidence against the petitioner except for the bald allegations made in the instant FIR. He informs the Court that co-accused namely Balwant Singh and Manjit Singh have been granted concession of anticipatory bail by this Court vide order dated

30.5.2024 and 04.6.2024 passed in CRM-M-28280-2024 and CRM-M-29277-2024 respectively and co-accused Sona Singh and Jasvir Singh @ Jassi have been granted concession of regular bail by this Court vide order dated 14.6.2024 and 27.8.2024 passed in CRM-M-29518-2024 and CRM-M-39746-2024 respectively.

On behalf of the State

Learned State Counsel appearing on advance notice on instructions from Investigating Officer opposes the prayer for grant of anticipatory bail on the ground that the allegations levelled against the present petitioner are serious in nature and therefore, prays for dismissal of the instant petition.

4. **Analysis**

Be that as it may, after given a thoughtful consideration to the submissions made, by counsel for the petitioner that no specific role has been attributed to the petitioner; there is explained delay of 2 days in lodging the FIR and co-accused have already been granted concession of anticipatory bail, this Court 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 hereby directed to be released on anticipatory bail subject to him 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 stand cancelled.

The petition in the aforesaid terms stands allowed.

(SANDEEP MOUDGIL)
JUDGE

03.09.2024
anuradha

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