

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

211

CRM-M-56223-2024

DATE OF DECISION: 19.11.2024

AVIKASH @ SHIBU

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. K.S. Kahlon, Advocate for the petitioner(s).
Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

The jurisdiction of this Court has been invoked under Section 438 of the Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.43, dated 28.05.2024, under Sections 323, 324, 326, 452, 506, 148, 149 of IPC, registered at Police Station City Batala, District Gurdaspur.

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

'It is stated that statement of Amar Khosla s/o Tilak Raj r/o of Kapoori Gate, Batala District Gurdaspur aged 23 years Mobile No. 98146-30385, 7837597441. It is stated that I am resident of above mentioned address and serving in Corporation Batala as Driver on contract basis. On 27.05.2024 / alongwith my father Tilak Raj and mother Meera was present in my house at 11.00 p.m. on the outer door of my house. Some unknown person called out my name and called me outside. I open the outer door of my house and outside in the Street Babita @ Babbi



wife of Vijay Kumar r/o Kapoori Gate Batala, her son Abikash @ Mithu son of Vijay Kumar and Shiv @ Vicky s/o Vijay Kumar r/o Kapoor Gate Batala armed with datar and Ali son of Raju r/o Gwal Mandi, Amritsar armed with datar, Danish @ Kannu s/o Vijay Kumar r/o Mia Mohalla Batala armed with datar and Khula s/o not known r/o Andhria Mohalla Batala armed with sota and two unknown persons were seeing standing and Babita @ Babbi gave lalkara and said all the persons to catch hold of him. He is Khosla who had fought with us last year and got my son injured and teach him a lesson for that. I tried to close my door but the aforementioned all persons alongwith their weapons forcible entered our house and Avikash @ Shibu attacked me with datar which hit me on the left side from the center of my head. And Shiv @ Vicky s/o Vijay Kumar attacked me with his datar which hit me in the middle of head on the right side, Ali s/o Raju r/o Gwal Mandi District Amritsar attacked me with datar which hit me on my forehead. Then Danish @ Kannu s/o Vijay r/o Mia Mohalla Batala attacked me with his datar which hit me on the left side of my head above the ear. Ghulla r/o Attari Mohalla Batala attacked me with datar which hit me on the head above the neck and unknown persons attacked me with datar which hit me near the right ear. And Babita @ Babbi attacked me with Sota which hit me on my shoulder. Avikash @ Shibu attacked me with datar which hit me on the right side of my biased. Shiv @ Vicky attacked me with datar which hit me on the right thing. Danish @ Kannu attacked me with the reverse side of datar which hit me on right knee. I shouted 'Mar Ditta Mar Ditta'. My mother Meera tried to save me by coming in front then Avikash @ Shibu attacked my mother with the reverse side of datar and also pushed her. As a result the finger of right hand got injured. My father Tilak Raj is paralytic from one side and he was shouting from inside to the Assailants that why are you hitting my son. My mother pleaded before the Assailants and got me saved from them. The Assailants ran away from the spot



alongwith weapons while hurling abuses. After listening to hue and cry Rahul s/o Karam Pal r/o Kapoori Gate Batala took me to Civil Hospital Batala for arranging vehicle and got me first aid and also got the MLR conducted. But because the injuries were serious / was referred Guru Nanak Hospital, Amritsar. Where I am under treatment. The reasons of discord was that last year 2023 / had fight with Avikash and Shiv Kumar @ Vicky and they had got injured and with the intention of revenge the aforesaid persons have forcible entered my house on 27.05.2024 at 11.00 p.m at night and had inflicted serious injuries on me. I certify the same and action may kindly be taken The statement has been read and heard is stated to be correct. Sd/- Amar Khosla certified by Sunny Khosla s/o Tilak Raj r/o Kapoori Gate Batala. Mob.no. 8054801991. Certified by Iqbal Singh AS/ P.S. City Batala dated 28.05.2024.”

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 as per the allegations, the petitioner was armed with datar and is attributed injuries on the left side of the head, right side of back, right leg of the complainant. He submits that the present case is a version and cross-version and the cross-case has not been registered since no injury has been caused by the petitioner as alleged in the FIR.

On behalf of the State

Learned State Counsel appearing on advance notice has filed short reply by way of affidavit of Sanjeev Kumar, PPS, Deputy Superintendent of Police, Police District Batala on behalf of the respondent-State, the same is taken on record. Copy of the same has been furnished to the counsel opposite.



As per the short reply, the evidence against the petitioner is in the form of oral statement of the complainant recorded under Section 161 Cr.P.C. by the investigating officer which is corroborated with the Medico Legal Report of the complainant. He submits that the custodial interrogation of the petitioner is required in view of the seriousness of the allegations and to know the identities of other co-accused.

4. **Analysis**

Be that as it may, after given a thoughtful consideration to the submissions as made, by the counsel for both the parties, especially to the extent that the present case is a version and cross-version and the cross-case has not been registered since no injury has been caused by the petitioner as alleged in the FIR, hence, 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 within the stipulated time period.

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 as 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 stand allowed.

(SANDEEP MOUDGIL)
JUDGE

19.11.2024
anuradha

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