

2024:PHHC:149333



105

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-57056-2024
DECIDED ON: 18.11.2024

AVTAR SINGH AND ANOTHER
.....PETITIONERS

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Imraan Farooqi, Advocate
for the petitioners.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

The jurisdiction of this Court under Section 482 of The Bharatiya
Nagarik Suraksha Sanhita, 2023, has been invoked seeking the concession for the
grant of anticipatory bail to the petitioner in FIR No.80 dated 14.09.2024, under
Sections 331(6), 115(2), 117(4), 351(2), 351(3), 191(3) and 190 of BNS Act, 2023
registered at Police Station Sadar Ahmedgarh, District Malerkotla (Annexure P-1).

2. Facts

The prosecution story set up in the present case as per the version
narrated in the FIR read as under :-

*“At this time, it is recorded that a duplicate Rapport No. 19, dated
26.07.2024, regarding my statement by hand of PHG Gurpreet Singh
18441, has been received to register the case from ASI Amrik Singh
2487/Sangrur. A copy is provided below: It is recorded that the injured*

Kuljinder Singh son of Bahadur Singh, Mukhtiar Singh son of Jora Singh, Jaswinder Singh son of Mukhtiar Singh, and Gagan Singh son of Bahadur Singh were present at the police station of Kanganwal along with fellow employees including myself, SI. A copy of my statement is as follows: I, Jaswinder Singh, son of Mukhtiar Singh, resident of Kanganwal, aged 28 years, with mobile No. 98159-74662, state that I am a resident of the said address and work as a private driver. I married Harpreet Kaur, the daughter of Avtar Singh from Jahangir Police Station, Sadar Dhuri, District Sangrur, about two years ago. Our marriage was one of love, from which my son, Bikram Singh, about 9 months old, was born. Previously, my wife Harpreet Kaur had not gone to her ancestral village Jahangir. After our son was born, she began visiting her parents' village more frequently. My in-laws then started turning against us. On the evening of 25-07-2024, around 10:00 PM, we were having bread and water and talking at our house. At that time, the door of my house was open, and suddenly my brother-in-law Avtar Singh, armed with a Baiswal, my brother-in-law Kamaldeep Singh, armed with a Gandasi, my mother-in-law Paramjit Kaur who was empty-handed, my aunt mother-in-law whose name I do not know, and two friends of my brother-in-law whose names I do not know, one armed with a Kirpan and the other armed with a Baiswal, along with my brother-in-law Kamaldeep Singh, entered and provocatively stated that today they would teach us a lesson for the alleged harassment of their daughter. Then, my brother-in-law Kamaldeep Singh, wielding the gandasi, struck me on the back of the head. He hit me again, and when my father, Mukhtiar Singh, tried to shield himself, Kamaldeep struck him near the wrist and then on the head. Upon hearing our cries, our neighbors Gagandeep Singh and Taljinder Singh, sons of Bahadur Singh and residents of Kanganwal, rushed to our house. My brother-in-law's friends then assaulted them on the head with their weapons. We screamed loudly, and many people from our neighborhood gathered. Amidst the chaos, my wife, Harpreet Kaur, took our son, some of her belongings, and fled in her vehicle, an Etios with the registration PB-10-FZ-1501, and a Bullet motorcycle, the number of which I do not recall. Earlier, they had chased me with the intent to assault me in Malerkotla town. I request that action be taken against them. I have written and verified this statement. It is accurate to the best of my knowledge. Deponent: Sd/- Jaswinder Singh. Endorsed by Sd/- Mukhtiar Singh, son of Zora Singh, resident of Kanganwal, Endorsed by Sd/- Gagandeep Singh, son of Bahadur Singh, resident of Kanganwal, Sd/- Taljinder Singh, son of Bahadur Singh, resident of Kanganwal. Attested by Sd/- Pyaara Singh, SI, Police Station Sadar Ahmedgarh, Date: 26-7-2024. Action Police Report: Today, I received a phone call from the Main Munshi at Police

Station Sadar Ahmedgarh SI, who informed me that Jaswinder Singh, son of Mukhtyar Singh; Mukhtyar Singh, son of Zora Singh; and Gagandeep Singh and Taljinder Singh, sons of Bahadur Singh, residents of Kanganwal, have been admitted to Civil Hospital Malerkotla. Action should be taken accordingly. I, Si, along with ASI Jaspal Singh (No: 1224/Sang) and PHG Gurpreet Singh (No: 18441), proceeded to Civil Hospital Malerkotla with a laptop and printer. Upon arrival at the hospital's police post, I received four MLR applications: MLR No. GS/435/MLK/2024 for injured Jaswinder Singh, in which Dr. Sahib recorded a total of four injuries. Injuries No. 1 and 2 were reserved for surgical opinion, and injuries No. 3 and 4 for orthopedic opinion. MLR No. GS/433/MLK/2024 for injured Mukhtiyar Singh, where Dr. Sahib recorded three injuries, Injury No. 1 was reserved for surgical opinion, Injury No. 2 for orthopedic opinion, and Injury No. 3 for dental opinion. MLR No. GS/434/MLK/2024 for injured Tajinder Singh, with a total of five injuries recorded. Injury No. 1 was reserved for surgical opinion, and Injuries No. 2, 3, 4, and 5 for orthopedic opinion. MLR No. GS/432/MLK/2024 for injured Gagandeep Singh, where Dr. Sahib recorded two injuries, both reserved for surgical opinion. I then submitted a written request to Dr. Sahib to obtain the statements of all four injured individuals. Dr. Sahib certified that all four were fit to give statements. I read the statement of injured Jaswinder Singh aloud, word by word, as written. After listening and confirming its accuracy, he signed his statement in English. In support, his father Mukhtiyar Singh, along with Gagandeep Singh and Taljinder Singh, signed in Punjabi, which I, SI, verified. From the statements and MRs, the case is not found to be within the competent jurisdiction of the police. Later, the investigation statements and medical reports will be received, and action will be taken accordingly. The entry of the statement should be returned but recorded in the police station diary (CCTNS). The entry of the statement is sent to PHG Gurpreet Singh (No. 18441) for registration, and I am in the process of investigation. At CH MLK, Time: 7:20 PM Sd/- Pyara Singh, SI Thana Sadar Ahmedgarh, Date: 26-07-2024 The entry of the statement was made in the CCTNS diary by transcribing it letter by letter. Action Police: Dated 26-07-2024. Today, a phone call was received by SI Pyara Singh (139/LDH (R)) from the Main Munshi at Police Station Sadar Ahmedgarh, who said that Jaswinder Singh, son of Mukhtiar Singh; Mukhtiar Singh, son of Zora Singh; and Gagandeep Singh and Taljinder Singh, sons of Bahadur Singh, residents of Kanganwal, are admitted to Civil Hospital Malerkotla due to injuries. Action should be taken. Accordingly, SI Pyara Singh (139/LDH (R)), along with ASI Jaspal Singh (No. 1224/Sang) and PHG Gurpreet Singh (No. 18441), reached Civil Hospital Malerkotla with a

laptop and printer. There, SI Pyara Singh obtained four MLRs from Civil Hospital Malerkotla: MLR No. GS/435/MLK/2024 dated 26-07-2024 for injured Jaswinder Singh, in which the doctor recorded four injuries. Injuries No. 1 and 2 were reserved for Surgical Opinion, and Injuries No. 3 and 4 for Orthopedic Opinion. MLR No. GS/433/MLK/2024 dated 26-07-2024 for injured Mukhtiyar Singh, in which Dr. Sahib recorded a total of three injuries. Injury No. 1 was reserved for Surgical Opinion, Injury No. 2 for Orthopedic Opinion, and Injury No. 3 for Dental Opinion. MLR No. GS/434/MLK/2024 dated 26-07-2024 for injured Tajinder Singh, who received a total of five injuries. Injury No. 1 was reserved for Surgical Opinion, and Injuries No. 2, 3, 4, and 5 were kept for Orthopedic Opinion. The injured Gagandeep Singh's MLR No. GS/432/MLK/2024 dated 26-07-2024 recorded that he received two injuries. Injury No. 1 was reserved for X-ray opinion, and Injury No. 2 was reserved for orthopedic opinion. Then, SI Pyara Singh (139/LDH (R)) obtained a written opinion from Dr. Sahib to record the statements of the four injured individuals. Dr. Sahib certified that all four were fit to give statements. SI Pyara Singh (139/LDH (R)) read the statement of injured Jaswinder Singh word by word as written. After hearing and confirming it to be correct, Jaswinder Singh signed his statement in English. In support, Mukhtiyar Singh, Gagandeep Singh, and Taljinder Singh signed in Punjabi, which was attested by SI Pyara Singh (139/LDH (R)). From the statements and MLRs, it was determined that no cognizable offense was made out. Further investigation statements and medical reports will be received later, and action will be taken accordingly. SI Pyara Singh (139/LDH (R)) sent PHG Gurpreet Singh (No. 18441) to the police station to record the statement, vide Rapat No. 19 dated 26-07-2024 in the Rojnamcha CCTNS. On 26-07-2024, a ruka (written communication) was received from the SHO of Police Station City Dhuri regarding Harpreet Kaur, wife of Jaswinder Singh, resident of Kanganwal, for necessary action. SI Pyara Singh (139/LDH (R)) noted the same. Accordingly, SI Pyara Singh (139/LDH (R)), along with his fellow employees, proceeded from Police Station City Dhuri and reached Civil Hospital Dhuri. He obtained a written opinion from Dr. Sahib regarding the fitness of the injured to give a statement. Dr. Sahib certified that the injured was fit to give a statement. The statement was recorded word by word, and after hearing and accepting it as correct, the injured signed her statement in English. The statement was supported by Kamalpreet Singh. In MLR No. SK/17/2024 dated 25-07-2024, Dr. Sahib recorded a total of five injuries, all of which were blunt. They were reserved for X-ray opinion. Harpreet Kaur's statement requires in-depth investigation. After the X-ray report is received, action will be taken as per the investigation. Currently, no

cognizable offense is established. SI Pyara Singh (139/LDH (R)) returned but made an entry of the statement, Rapat No. 20 dated 26-07-2024, in the Journal CCTS. Subsequently, SI Pyara Singh (139/LDH (R)) was transferred, but Head Constable Gursevak Singh (1740/Sang), Chief Munshi at the police station, on 26-07-2024, received the MLR of Jaswinder Singh along with the statement for further action. The ASI has arrested the injured persons: Jaswinder Singh, son of Mukhtiyar Singh; Mukhtiyar Singh, son of Zora Singh; and Gagandeep Singh and Taljinder Singh, sons of Bahadur Singh Residents of Kanganwal's medical record obtained from Civil Hospital Malerkotla. An application No. 1383/P dated 05-08-2024 from Harpreet Kaur, wife of Jaswinder Singh, resident of Kanganwal, was received against Jaswinder Singh, son of Mukhtiyar Singh; Mukhtiyar Singh, son of Zora Singh; and Daljit Kaur, wife of Mukhtiar Singh-all residents of Kanganwal; as well as Karamjit Kaur, wife of Avtar Singh, resident of Bhadra; and Daljit Kaur, wife of Nikka Singh, resident of Channanwal. The application was submitted to senior officers and was marked to me, ASI, for scrutiny on 14-08-2024. On 22-08-2024, I, ASI, determined the nature of injuries of the aforementioned individuals. Dr. Sahib described the injuries sustained by Jaswinder Singh, son of Mukhtiyar Singh; Gagandeep Singh; and Taljinder Singh, sons of Bahadur Singh, residents of Kanganwal, as "simple." However, Injury No. 2 of Mukhtiar Singh, son of Zora Singh, resident of Kanganwal, was classified as "grievous" in nature. On 27-08-2024, I obtained the medical records of Harpreet Kaur, wife of Jaswinder Singh, resident of Kanganwal, from Civil Hospital Dhuri and assessed the nature of her injuries. Dr. Sahib noted that the injuries sustained by Harpreet Kaur were "simple" in nature. On 03-09-2024, statements were recorded from both parties regarding the investigation of the application. On 05-09-2024, at Civil Hospital Dhuri, the nature of Injury No. 1 of Harpreet Kaur was declared. Dr. Sahib confirmed that the injury she suffered was "simple" in nature. Today, dated 14-09-2024, along with SC Lakhveer Singh (349/Sang) and PHG Gurmeet Singh (18441), I, ASI, as per Probe Report No. 19 dated 26-07-2024 Rojnamcha CCTNS, proceeded regarding the statement of Jaswinder Singh, son of Mukhtiar Singh, resident of Kanganwal, and the related MLR statements. The place of occurrence was Village Kanganwal, where the MLRs of the injured -Jaswinder Singh, son of Mukhtiyar Singh; Mukhtiyar Singh, son of Zora Singh; Gagandeep Singh; and Baljinder Singh, son of Bahadur Singh, residents of Kanganwal-along with the statements and application were scrutinized. The investigation leads to offenses under Sections 331(6), 115(2), 117(4), 351(2)(3), 191(3), 190 BNS, and Rapat No. DDR No. 19 dated 26-07-2024 Rojnamcha CCTNS, regarding the statement of Jaswinder Singh, son of Mukhtiar

Singh, resident of Kanganwal, in a criminal case against the accused: Avtar Singh, son of Maghar Singh, Kamaldeep Singh, son of Avtar Singh, Paramjit Kaur, wife of Avtar Singh, Sinder Kaur, wife of Guljar Singh, Manjinder Singh alias Ghachi, son of Baljinder Singh, residents of Jahagir, Dharma, son of unknown, resident of Sekha, currently residing in Jahagir, Vehicle: Car No. PB-10FZ-1501, Make: Etios. The case documents are sent with PHG Gurpreet Singh (18441) for filing. A file number should be assigned upon filing the case. The In-charge Control Room Malerkotla should be informed, and special reports are to be issued. There is an opportunity for further investigation by colleagues, including the ASI. Today: Place: Village Kanganwal, Time: Approximately 02:45 PM, Sd/- Amrik Singh, ASI, Sadar Ahmedgarh, Date: 14-09-2024. A duplicate report was made for the said crime against: Avtar Singh, son of Maghar Singh, Kamaldeep Singh, son of Avtar Singh, Paramjit Kaur, wife of Avtar Singh, Sinder Kaur, wife of Guljar Singh, Manjinder Singh alias Ghachi, son of Baljinder Singh, residents of Jahagir, Dharma, son of unknown, resident of Sekha, currently residing in Jahagir, They were registered, and the necessary entries were recorded. Notification is being sent via email to the In-charge Control Room Malerkota. Duplicate Report No. 19 dated 26-07-2024, along with statements and FIR, is forwarded with PHG Gurpreet Singh (18441) to ASI Amrik Singh (2487/Sangrur) for further investigation. ”

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioners contends that there is an unexplained delay of 50 days, as the incident took place on 25.07.2024 and FIR was got registered on 14.09.2024. He submits that the dispute is stated to have arisen out of ongoing matrimonial discord, which has now been aggravated to the lodging of instant FIR.

Notice of motion.

On behalf of the respondent/State

On the asking of Court, Mr. Jaspal Singh Guru, AAG Punjab, accepts notice on behalf of respondent/State, who on instructions submits that the injury attributed to petitioner No.1 has been declared simple in nature, whereas injury

caused by petitioner No.2 is grievous in nature. He could not controvert the fact that there is a delay of 50 days.

4. Analysis & Decisions

Be that as it may, after given a thoughtful consideration to the submissions made by counsel for the petitioner, particularly to the effect that the question of trespass would not arise, as per the version of FIR itself, as the door of the house was open and it was not a forced entry added with the fact that the injuries attributed to both the petitioners not dangerous to life, this Court finds no reason to deny the petitioners the concession of anticipatory bail wherein the petitioners have bona fide intentions and are ready and 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.

Hence, in view of the admitted set of circumstances before this Court, the petitioners are hereby directed to be released on anticipatory bail subject to their joining investigation and reporting to the Investigating Officer concerned within a period of 10 days from today, on furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer.

The petitioners shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS of which are reproduced below :-

“When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

- (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 480, as if the bail were granted under that section.”

However, it is made clear that in case the petitioners do not comply with the aforesaid direction of joining the investigation within 10 days, the order passed by this Court today shall automatically, stand cancelled.

In the afore-said terms, the present petition stands allowed.

18.11.2024

Meenu

(SANDEEP MOUDGIL)
JUDGE

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