

2024:PHHC:152664



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-58165-2024
DECIDED ON: 21.11.2024

VISHAL AND OTHERS

.....PETITIONERS

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Charanjit Singh Bahia, Advocate
for the petitioners.

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 present petitioners in FIR No. 0084 dated 05.06.2024 under Sections 307, 458, 324, 323, 427, 148, 149 of IPC, 1860 (Section 325 of IPC added later on) registered at P.S. Canal Colony Bathinda, District Punjab. Bathinda.

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

‘Copy of the statement, Statement of Kiran Kaur, wife of Kaur Singh, son of Jung Singh, resident of street number 2-2-1/2, Amar pura Basti Bathinda presently residing at Street number 4, Bangi Nagar Bathinda. Before some days ago, Sudhir Kumar asked us to vacate the house. Then we said to him

that they will vacate the house within some days. Before some days ago, they have quarrel for vacating the house. They have a big family. Due to their fear, they went to the house of my mother, namely Baldev Kaur at Amar pura Basti after locking the house. On 4 June 2024, I and my husband, namely Kaur Singh, along with my son, namely karan Singh went to pick up our luggage on the asking of Sudhir Kumar. We entered into the house and collecting our luggage, then at about 9 PM, Sunil Kumar having Kirpan, Sudhir Kumar having Kuwari (Axe). Sudhir Kumar's Brother, who is known as cooleran wala having iron Kappa all sons of Devi Nand residence of street number 4, Bangi Nagar Bathinda, Sajan along with danda, Vishal along with Daang sons of Binder Singh, resident of street number 4, Bangi Nagar Bathinda, Vikram resident of near Nand's RO Bangi Nagar, Bathinda, Santosh Kumar Elias Judwa, son of Vishaidar Pandey, resident of street number 4, Bangi Nagar Bathinda, Mota Nai, resident Sanjay Nagar, Bathinda, along with 2-3 unknown persons suddenly entered into our house and at that time, light was on of our house. Sunil Kumar raised Lalka that today do not spare them. They are not getting our house vacated and by saying that he gave away Kirpan below toward my head with the intention of killing which hit upon my forehead. There after Sudhir inflict injury with Kulhari, which hit on knee of right leg. Meantime, my husband tried to rescue her, then Anil Kumar gave away Toca blow toward his husband with the intention of killing towards his head and it hit upon his forehead. Thereafter, Sudhir Kumar's brother namely Coolran Wala gave a Kappa blow on her husband which hit under the eye. Then they both were fell down, then above mentioned persons beat them with their weapons while they are laying down and there after they pulled both of them from legs and took us in the street, and they break open the gates of their house, thereafter they raised Rola of Marta Marta, then the above mentioned persons along with their weapons fled away from the spot. My son Lovepreet Singh reached the spot, who, after making arrangement for conveyance, got myself and my husband Kaur Singh hospitalized in CH Bathinda, where myself and my husband are undergoing treatment. Cause for the grievance is that the house which was taken by us on rent, the same was being intended to be got vacated in midterm by Sushil Kumar etc.

forcibly and because of that aforesaid persons, with an intent to kill, caused injuries to us. Statement has been got recorded; heard and it is correct. Action may be taken. RTI Kiran Kaur, aforesaid. Counter-signed Kaur Singh. Attested Sd/- Sukhminder Singh ASI/142 PP Vardhman, P.S. Canal Colony. Bathinda. Police Proceeding: Today, one ruka was received from DCR Bathinda to the effect that injured Kiran Kaur wife of Kair Singh; Kair Singh son of Jang Singh, residents of Gali No. 04, Bangi Nagar, Bathinda and Sudhir Kumar son of Deva Nand and Santosh Kumar son of Bisedar Pandey, residents of Gali No. 04. Bangi Nagar, have been hospitalized in CH Bathinda as cases of having sustained injuries in some feud and proceedings be conducted. On this, today, myself/ASI along with SCT Yadwinder Singh 2183/BTI, Ct. Kuldeep Singh 1942/Bathinda, LSCT Veer Pal Kaur 501/BTI, PHG Bagh Singh 10299, on reaching DCR Bathinda, after collecting rukas, reached Civil Hospital, Bathinda, where written opinion regarding recording of statements of injured Kiran Kaur wife of Kair Singh and Kair Singh son of Nand was obtained. Doctor sahib reported the female injured to be fit to make statement and MLR bearing no. GA/CHBTI/176/2024 of Kiran Kaur, in which doctor sahib had reported total 10 injuries on the person of injured; of which injuries no. 1,3,4,5,6 were reported as blunt while injuries no. 2 and 7 were reported as sharp and injury no. 8 was reported as Printed sharp while injuries no. 9 and 10 were reported as blunt, if any. All the injuries were kept under X-ray examination. On this, myself/ASI along with fellow officials on reaching near the beds of injured Kiran Kaur and Kair Singh, where injured Kiran Kaur along with her husband Kair Singh met, and she got recorded her aforesaid statement with me/ASI, which, after scribing. in verbatim, was read over and was made to understand and she, after reading over and hearing her statement and after understanding the same, appended her thumb impression below the statement and the statement was corroborated/counter signed by her husband Kair Singh and the statement was attested by me/ASI. From the aforesaid statement and above numbered FIR, crime under sections 307, 458, 324, 323, 427, 148, 149 IPC has been found to be made out, upon which present statement, for getting the FIR registered qua the aforesaid crime against Sunil Kumar, Sudhir Kumar, Anil

Kumar, Kulra Singh, brother of Sudhir sons of Devi Nand, residents of Gali No. 04, Bangi Nagar, Bathinda; Sajan and Vishal sons of Binder, residents of Gali No. 04, Bangi Nagar, Bathinda; Bikram resident of RO Bangi Nagar, Bathinda; Santosh Kumar @ Judwa son of Bisedar Pandey resident of Gali No. 04, Bangi Nagar. Bathinda; Moti Nai resident of Sanjay Nagar, Bathinda and 02/03 other unknown persons, through PHG Bagh Singh, is being sent to police station. After registration of FIR, number of FIR be informed. Special reports be issued. Information be sent to DCR and higher officers. Myself/ASI along with fellow officials am become busy in investigation. Sd/- Sukhminder Singh ASI/142, Police Station Canal Colony, Bathinda, dated 05.0-6.2024.'

3. **Contentions**

On behalf of the petitioners

Learned counsel for the petitioners submits that no injury whatsoever has been attributed to the petitioners and they were not members of the unlawful assembly. It is asserted on behalf of the petitioners that the complainant party namely Kiran Kaur and her husband had picked fight with Sudhir Kumar and others and resultantly present FIR was lodged and as far as the role of the petitioners are concerned, they were not present at the spot. He has drawn attention of this Court to the order dated 25.09.2024 (Annexure P-2), vide which co-accused persons have already been granted the concession of anticipatory by this Court passed in CRM-M-43936-2024.

On behalf of the State

Learned State Counsel appearing on advance notice on instructions vehemently opposes the prayer for grant of concession of anticipatory bail on the ground that 10 injuries have been suffered by the complainant Kiran Kaur and 11 injuries by her husband Kaur Singh, which are inflicted in connivance with each other by the accused persons including the petitioner.

4. Analysis

Be that as it may, after giving a thoughtful consideration to the submissions made by counsel for the petitioners, particularly to the effect that no specific role has been attributed to the petitioners and no incriminating material is coming forth qua the petitioners; main accused persons, who had inflicted injuries, have already been granted the concessions of anticipatory bail by this Court vide order dated 25.09.2024 (Annexure P-2) passed in CRM-M-43936-2024.

However, at this stage, it would not be appropriate for this Court to go further into the veracity of correctness of the allegations and the examination of the enquiry which is underway, though can be easily culled out that it is a case of version and cross-version between the parties.

In light of the above, this Court deems it appropriate to grant the concession of anticipatory bail to the petitioners, wherein the petitioners have bona fide intentions and are 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 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 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 petitioners do not comply with the aforesaid direction of joining the investigation within ten days, the order passed by this Court today shall automatically stand cancelled.

The petition in the aforesaid terms stand allowed.

(SANDEEP MOUDGIL)
JUDGE

21.11.2024
Meenu

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