



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-60485-2024
DECIDED ON: 03.12.2024

SHIV ALIAS VICKY

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Karambir Singh Kahlon, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. **Relief sought**

The jurisdiction of this Court has been invoked under Section 438 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 and 149 IPC, registered at Police Station City Batala, District Gurdaspur.

2. Prosecution story setup in the present case as per the version in the FIR 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 I 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 Kapoor 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 Ghula 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 above 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 waist. Shiv @ Vicky attacked me with datar which hit me on the right thigh. Danish @ Kannu attacked me with the reverse side of datar which hit me on right knee. Avikash @ Shibu attacked with datar which hit on right

leg (Tibia). And Ali gave reverse datar blow to me which hit me on my left 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 reverse side of datar and also pushed her. As a result her right hand finger 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 ASI P.S. City Batala dated 28.05.2024."

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner contends that as per the prosecution story, the petitioner was armed with datar and caused injuries in the middle of the head on the right side and also caused injuries on the right

thigh of the complainant Amar Khosla with datar. He further contends that it is a case of version and cross-version wherein the petitioner had received serious injuries at the hands of the complainant party regarding which FIR No.186, dated 10.12.2023 was registered at Police Station City Batala, which was got registered on the statement of Babita i.e. the mother of the petitioner, who has already been granted the concession of anticipatory bail along with co-accused Avikash @ Shibu vide orders dated 29.10.2024 (Annexure P-4), 19.11.2024 (Annexure P-5) passed in CRM-M-54047-2024 and CRM-M-56223-2024 respectively.

On behalf of the State

Learned State Counsel appearing on advance notice, does not controvert the aforesaid fact but opposed the grant of anticipatory bail to the petitioner on the ground that the petitioner being member of unlawful assembly inflicted grievous injuries to the complainant.

4. Analysis

Be that as it may, considering the fact that it is a case of version and cross-version, wherein the petitioner had also received serious injuries at the hands of the complainant party regarding which FIR No.186, dated 10.12.2023 was registered at Police Station City Batala, which was got registered on the statement of Babita i.e. the mother of the petitioner, who has been granted the concession of anticipatory bail along with co-accused Avikash @ Shibu vide orders dated 29.10.2024 (Annexure P-4), 19.11.2024 (Annexure P-5) passed in CRM-M-54047-2024 and CRM-M-56223-2024 respectively.

5. Decision

In the light of above, the petitioner is directed to be released on anticipatory bail subject to his joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction. 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 a period of one week, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

03.12.2024

Poonam Negi

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No