



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-60895-2024
DECIDED ON: 04.12.2024

JAGDISH KUMAR
.....PETITIONER

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Amitabh Tewari, Advocate,
Ms. Dilmrig Nayani, Advocate and
Ms. Mehak Arora, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.142, dated 03.11.2024, under Sections 109, 115(2), 126, 351 and 3(5) of BNS, 2023, registered at Police Station City Samana, District Patiala, Punjab.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“At present, it is entered that a copy of Rapat No.02 dated 03.11.2024 Roznamcha, Police station City Samana. Statement of Sansari Ram son of Rameshwar Dass, resident of Anand Colony, Samana, Police station City Samana, District Patiala, aged about 54 years, mobile No.98888-21709 against Jagdish Kumar alias

Kala son of Bhola Ram, Veena Rani wife of Jagdish Kumar alias Kala, Lavisha daughter of Jagdish Kumar alias Kala, Nikhil Kumar son of Jagdish Kumar alias Kala, residents of Waraich Colony, Samana, Police station City Samana, District Patiala under Section 109, 115 (2), 126, 351, 3 (5) BNS written by ASI Rajbir Singh, 850/PTA Police station City Samana, has been received through Senior Constable Satvir Singh, 3344/PTA at the Police station for the registration of the case. The contents of which are as under: It is stated that I am the resident of the above address. I run an electric shop near Tehsil Road, Samana. Today, I alongwith my brother Luv Kumar was present at my shop. One of my shop is opposite the Shiv Mandir, Tehsil Road. I have given this shop on rent to Chandan Kumar son of Rajesh Kumar, resident of Samana. Today at about 12.30 PM, I received a phone call from my tenant Chandan Kumar that in front of your shop, Jagdish Kumar alias Kala of Karyana Store is taking possession by putting a pipe. Then I took my brother Luv Kumar and immediately reached at the site. Then we entered the shop and asked the detail from the tenant Chandan Kumar. He told that our neighbourer of Karyana Store is taking the possession by putting a pipe in front of our shop. We came out and asked him as to why he is doing this wrong act. To the contrary Jagdish Kumar started abusing us. In the Karyana Store, at that time Veena Rani wife of Jagdish Kumar, Nikhil Kumar son of Jagdish Kumar, Lavisha daughter of Jagdish Kumar were sitting. Upon hearing the noise, they came out. At that time, Jagdish Kumar alias Kala was carrying some sharp edge thing. He hit straight in my head, which hit in my forehead above my left eye. At that time, my brother Luv Kumar, who was standing near me, tried to rescue me. Then all these persons left me and caught my

brother Luv Kumar and threw him on the ground and beaten him. Punches were hit on the face of my brother. The specs of my brother were also broken. Then we raised hue and cry. Then many persons gathered there and upon seeing the gathering of the people, all these persons gave us more beating. After getting rescued from them, we went to our house. Then Jagdish Kumar alias Kala and the wife of Jagdish Kumar namely Veena Rani and Nikhil Kumar and Lavisha again encircled us in front of our house and beaten us. We again raised hue and cry, then all of them fled from there. While leaving, they gave us threat that today, you have escaped, if again would raise an issue, then would not leave, will kill you and also have the possession. In the crowd, some person told everything to my brother Ruldu Ram on phone. He came to the site and after arranging a vehicle, got us admitted in Civil Hospital, Samana for treatment, where we are under treatment. Legal action be taken against the above persons. I have got my statement recorded to you, read it, heard it and is correct. Sd/- Sansari Ram, statement corroborated, Sd/- Luv Kumar son of Rameshwar Dass, resident of Anand Colony, Samana, Attested, Sd/- Rajbir Singh, ASI, Police station City Samana, dated 02.11.2024.”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner contends that it is case of version and cross-version. He further contends that the petitioner has acted in self-defence as is evident from FIR itself that firstly the petitioner was attacked who for protecting himself retaliated which further caused blunt injury on the forehead of the complainant. He has made reliance to a video

clip which has been placed on record in the form of a pendrive (Annexure P-2) to substantiate the afore-stated fact.

On behalf of the State/complainant

Learned State Counsel appearing on advance notice, on instructions from ASI Rajbir Singh assisted by Mr. Arjun Kapur, Advocate, who has filed Vakalatnama today in Court, which is taken on record, has produced a copy of the medical examination conducted at Delta MRI & CT Scan Centre wherein the following conclusion has been recorded:-

“Conclusion:

*Small WMH bilateral supratentorial white matter-----
Microangiopathic/Demyelination foci.*

*For clinical correlation & further relevant
investigations.”*

Mr. Guru would submit that opinion on the basis of said report is still awaited. He further submits that the petitioner is involved in one more case, meaning thereby, he is a habitual offender and on that basis seeks the dismissal of the instant petition.

4. **Analysis**

Be that as it may, having gone through the contents of the instant FIR as well as the assertions made on behalf of the counsel for the petitioner and also upon perusal of CT Scan report dated 04.11.2024, till date the nature of the said injury has not been opined but admittedly scuffle did take place and this is a case of version and cross-version which is an admitted fact.

As far as contention of the State qua pendency of another FIR against the petitioner, bearing No.84, dated 21.04.2021, registered at Police

Station Samana, under Sections 451, 323 and 34 IPC, is concerned, a cancellation report stands filed as is evident from order dated 09.03.2024 (Annexure P-5), which has been accepted and the matter stands disposed of in the National Lok Adalat, Samana.

Looking into the totality of facts and circumstances prevailing wherein the medical opinion has not yet been tendered despite the lapse of more than one month, the petitioner cannot be made to hang around in the fear of arrest until prima facie case of arrest is not made out against him.

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 482(2) of BNSS, 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 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.

If the medical opinion later comes to elucidate about a severe gravity qua the injury on the person of the complainant, the State as well as the complainant is always at liberty to move the courts at any stage.

In the aforesaid terms, the present petition stands allowed.

04.12.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No