

PBBT010097082024



Presented on : 28-08-2024
Registered on : 28-08-2024
Decided on : 06-09-2024
Duration : 0 years, 0 months, 9 days

IN THE COURT OF
Additional Sessions Judge, Bathinda
(Presided Over by Shri Rajiv Kalra, PB0098)

BA/3039/2024

APPLICATION FOR REGULAR BAIL
FIR no. 56 dated 28.04.2024
U/s 308, 323, 341, 427, 148, 149 IPC
P.S. Civil lines, Bathinda

Happy Singh son of Chhinda Singh resident of 17929 Street no. 18
Chandser Basti, Bathinda, Tehsil and District Bathinda.

Versus

State

Sh. Munish Kumar Garg, Advocate, counsel for applicant
Sh. Binni Mittal, Additional Public Prosecutor for the State.

ORDER
(Delivered on 06-09-2024)

1. While apprehending his arrest in FIR no. 56 dated 28.4.2024 registered under Sections 308, 341, 323, 148, 149 IPC at PS Civil lines, Bathinda, this is second consecutive bail application filed by applicant, Happy Singh, for grant of anticipatory bail.
2. The case relates to assault on Sukhmander Singh and Sameer Singh by a group of accused on 28.04.2024 and the police swung into

action after the receipt of intimation regarding admission of injured at Civil Hospital, Bathinda. During visit of the police at hospital, the first information regarding incident was given by injured Sukhmander Singh @ Mander Singh, who disclosed that on 28.4.2024 after attending an election rally of Harsimrat Kaur Badal, he along with his companions and other supporters were returning on a school van bearing no. PB-03AF-3222. When the said school van reached at gate no.3 of Sports Stadium, Bathinda, they were intercepted by 8/10 young people, who came on motorcycles and scooters and were armed with various weapons consisting of *kirpans*, sticks, iron rods and baseball. The group of accused encircled the van and started causing damage to it. Out of fear, the driver Nirmal Singh ran away from the spot after opening the door. Some of the accused entered the van and raised exhortation to teach them a lesson for assaulting their friend Pinna.

3. The complainant further described the assault by deposing that co-accused Vikram @ Cofee gave iron rod blow on his head. The complainant was given another blow of baseball by Yadwinder Singh @ Pinna on left elbow. The complainant was given third blow by Vinayrattu with *kirpan* on left bicep. The complainant alleged that the applicant Happy Singh and other co-accused Lovedeep Singh @ Doddi, Lakhvir Singh @ Kaka, Gurjot Singh @ Jot, Vinayrattu, Money Singh @Labha, Abhi @ Goli were accompanying them and they also assaulted his companion Sameer Singh. The people accompanying the complainant in the van raised alarm and accused fled away from the spot with their

weapons. After arranging vehicles, the injured were shifted to Civil Hospital, Bathinda. Due to serious injuries, Sameer Singh was referred to higher hospital whereas complainant got his treatment from Civil Hospital, Bathinda. The motive behind the incident was explained to be previous altercation with accused Pinna in the election Rally.

4. Based upon such first information coupled with medical evidence collected by the police, a formal FIR was registered and investigation was pressed into service. Applicant Happy Singh could not be arrested whereas other co-accused were arrested and after completion of investigation, the police submitted *challan* before this Court and the corresponding trial titled as *State vs. Yadwinder Singh & others*, SC/72/2024, is pending before this Court at prosecution evidence stage, after framing of a formal charge. While apprehending his arrest, the applicant has approached this Court for grant of anticipatory bail.

5. I have heard learned counsel for both the sides.

6. Learned applicant counsel fairly conceded that first bail application for anticipatory bail (BA/1735/2024) was dismissed on 29.05.2024 by the Court of Dr. Ranjan Kumar Khullar, learned Additional Sessions Judge, Bathinda but it is asserted that there is change of circumstance and the complaint gave affidavit regarding non involvement of the applicant in the incident. Learned applicant counsel further argued that investigation is complete and presence of the applicant is required for trial purpose only. With these contentions, he prayed for acceptance of bail application and for grant of anticipatory bail to the applicant.

7. On the other hand, learned Additional Public prosecutor for State opposed the plea of bail on the premise that serious allegations have been levelled against the applicant for hobnobbing with other co-accused in leading assault upon the complainant and another injured witness and some of the injuries sustained to them were declared to be dangerous to life. It is further argued that applicant is evading the process of law since long and the police under compelling circumstances have to conclude investigation qua co-accused and to submit *challan*. It is further asserted that custodial interrogation of the applicant is required and thus, a prayer for dismissal of the bail application is made.

8. I have considered the rival submission of both the sides.

9. There are specific allegations against the applicant being part and parcel of unlawful assembly which led assault upon the complainant and another injured witness and some of the injuries sustained by them were turned to be dangerous to life. The applicant has evaded the process of law since long and the police concluded investigation qua co-accused and presented the *challan* before this Court. Having regard to these circumstances, the custodial interrogation of the accused appears to be requisite for facilitating the police to conduct the necessary investigation in the instant case.

10. At this stage, the applicant has pleaded a compromise with the complainant party and relied upon an affidavit given by complainant to assert his non involvement in the incident. This is not an appropriate stage to consider such defence plea and otherwise, the offence is non

compoundable. This is not a valid ground to grant benefit of anticipatory bail to the applicant.

11. There is another material fact that on similar grounds, the previous bail application of the applicant was dismissed by a competent Court of jurisdiction and the applicant has failed to explain any change of circumstances for moving second consecutive bail application. On this ground also, the application is not tenable.

12. Consequently, the bail application is dismissed without expressing any opinion on the merits of the case. Copy of this order be sent to the concerned quarters and records be consigned.

PRONOUNCED IN OPEN COURT ON 6th SEPTEMBER 2024

Rajiv Kalra (PB0098)
Additional Sessions Judge, Bathinda

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