

PBTT010055352024



Presented on : 04-11-2024
Registered on : 05-11-2024
Decided on : 07-11-2024
Duration : 0 years, 0 months, 3 days

**IN THE COURT OF PRASHANT VERMA
ADDITIONAL SESSIONS JUDGE, TARN TARAN
(UID No. PB0236)**

Case Type	BA
Filing Number	4674/2024
Registration number	2715/2024
CNR Number	PB-TT-01-005535-2024
Date of Decision	07.11.2024

Kulwant Kaur, aged 53 years, wife of Heera Singh, resident of village Kasel, Tehsil and District Tarn Taran.

.....Accused/applicant

Versus

State of Punjab.

**(Bail Application under Section 482 of Bharatiya
Nagarik Suraksha Sanhita, 2023)**

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FIR No. 55 dated 10.08.2024
Under Sections: 115 (2), 118 (1), 190, 191 of BNS, 2023,
Police Station: Sarai Amanat Khan

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Present : Shri APS Saggu, Advocate, counsel for the
applicant/accused.
Shri Gaurav Dewan, Additional Public Prosecutor for the
State
S/Ct. Gurpreet Singh Belt no.1783/TT along with record.

ORDER

1. The above named accused has filed this application for grant
of pre-arrest bail in afore referred F.I.R.

2 Notice of the bail application was issued to the State and police record was requisitioned. It was reported by the Ahlmad that neither any bail application relating to accused/applicant was pending and nor had it been decided earlier. Such a declaration also contained in the bail application.

ABSTRACT OF FIR/PROSECUTION STORY:

3. The very pith of the FIR being that the same was registered on the statement of complainant Gurmeet Singh on 10.08.2024. He had claimed that on 08.08.2024, at about 9:15 P.M., he was present at his home when Prabhdial Singh armed with sword, Gurdial Singh armed with dater, Heera Singh armed with Gandasi, Jagtar Singh armed with dater, Harjinder Singh armed with wooden club, Davinder Singh armed with dang, Kulwant Kaur armed with bat, Jagroop Singh armed with sword barged into the shop of complainant and questioned him as to why he had accompanied Balwinder Singh to the police station. Prabhdial Singh raised a lalkara and Heera Singh, Jagroop Singh and Jagtar Singh dragged out the complainant. Thereafter the complainant fled away but was ultimately flanked by the accused from all sides. Prabhdial Singh gave a sword blow upon the right side of the back of the complainant and he fell on the ground. Heera Singh grabbed the hair of the complainant and dragged him. The complainant raised an alarm upon which his sister, Rajbir Kaur, and Bahadar Singh also turned up. Accused Jagroop Singh gave three successive blows with sword upon the sister of the complainant which fell on the fingers of her right and left hand. The complainant intervened and accused Prabhdial Singh gave sword blows upon the right side of the back of the complainant. Accused Davinder Singh gave dang

blow upon Bahadar Singh which fell on the left side of his neck. The complainant raised an alarm upon which the accused fled away.

***ARGUMENTS RAISED BY LEARNED COUNSEL FOR
APPLICANT/ ACCUSED:***

4 Contention of learned counsel for the accused-applicant was that the accused-applicant was innocent and has been falsely implicated in this case. The accused-applicant is ready to join the investigation.

ARGUMENTS OF LEARNED ADDL. PUBLIC PROSECUTOR.

5 On the other hand, main contention of learned Additional Public Prosecutor for the State had argued that the version of the prosecution was very much plausible and that custodial interrogation of the accused was required.

GUIDING PARAMETERS

As outlined in *Gurbaksh Singh Sibbia v. State of Punjab, (SC) : Law Finder Doc Id # 104574 reported in 1980 AIR(SC) 1632 Bhadresh Bipinbhai Sheth v. State of Gujarat and Another : Law Finder Doc Id # 705395 reported in 2015 AIR(SC) 3090 Sushila Aggarwal and others - Petitioners Versus State (NCT of Delhi) and another – Respondents : Law Finder Doc Id # 1674499 reported in 2020 AIR (SC) 831*

(a) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made; (b) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence; (c) The possibility of the applicant to flee from justice; (d) The possibility of the accused's likelihood to repeat similar or other offences; (e) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her; (f) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people; (g) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and caution, because over implication in the cases is a matter of common knowledge and concern; (h) While considering the prayer for grant of anticipatory bail, a

balance has to be struck between two factors, namely, no prejudice should be caused to free, fair and full investigation, and there should be prevention of harassment, humiliation and unjustified detention of the accused; (i) The Court should consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant; (j) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the course of events, the accused is entitled to an order of bail.

DISCUSSION:

6 According to MLR relating to Gurmeet Singh, he had four incised wounds on his back and all the injuries were declared to be simple in nature. Rajbir Kaur had three incised wounds, located on fingers of left hand and right hand. All the injuries were declared to be simple in nature. Bahadar Singh had a lacerated wound which was declared to be simple. Out of the offences, section 115 (2) corresponds with section 323 of IPC and is bailable in nature. Section 118 (1) corresponds to section 324 of IPC and is non-bailable in nature. The injuries are on non vital parts of the body and besides that no injury falls within the definition of section 118 (2) of BNS. As far as the accused/applicant is concerned, no tangible injury has been attributed to her. As such, in the peculiar circumstances, the accused/applicant is held entitled to the grant of anticipatory bail.

CONCLUSION:

7. In view of above discussion and observations, the application under adjudication is allowed. The accused/applicant is directed to join investigation within 7 days from today and in the event of arrest, the accused/applicant be released forthwith on bail in the afore said case on furnishing bonds to the satisfaction of the investigating officer subject to the following conditions:

1. the accused-applicant shall make herself available for interrogation by the investigating officer/competent police officer as and when required ;
2. the applicant-accused shall not, directly or indirectly, made 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 to any police officer;
3. the accused-applicant shall not leave India without the previous permission of the Court, including the trial Court.
4. the accused- applicant shall attend the proceedings in accordance with the conditions of the bonds so executed under Chapter XXXV of BNSS.
5. the accused- applicant shall not commit an offence similar to the offence of which she is accused, or suspected, of the commission of which she is suspected;
6. the accused-applicant shall not tamper with the evidence by any means;
7. the accused-applicant shall appear before the trial court on each date of hearing unless her personal appearance is exempted.

In case of violation of any of the conditions so imposed upon the accused-applicant, the investigating officer will be at liberty to file an appropriate application seeking cancellation of the bail granted to the applicant through the present order. Further, in case of breach of any of the conditions so imposed through the present order by the accused-applicant, the trial court will be at liberty to cancel the bail order of the accused. allowed. For the purpose of Section 23 of Bharatiya Sakshya Adhiniyam, 2023, the applicant will be deemed to be in custody in context to any recovery make from them during the course of investigation.

Intimation be sent to SHO of concerned police station. Police record be returned forthwith, while file be annexed with the main file/consigned to the record room.

Pronounced in open court
Dated: 07.11.2024

Rahul Sharma (steno)

Prashant Verma,
Additional Sessions Judge
Tarn Taran/UID-PB0236