

IN THE COURT OF SH. K.K. SINGLA,
ADDL. SESSIONS JUDGE, GURDASPUR.

CIS BA No. 274 of 2021

CNR No. PBGD01-00599-2021

Date of decision : 28.01.2021

Chetan Singh alias Chetanbir Singh son of Iqbal Singh, resident of
Village Nabipur, Tehsil and District Gurdaspur.

.....Accused/applicant.

Versus

State of Punjab

..Respondent.

FIR No. 8 dated 15.01.2021,
Offence U/s. 307, 452, 323, 148, 149, subsequently added
under Section 308, 324 IPC,
Police Station Dorangala.

Present:- Sh. Sanjot Singh Harra, Advocate, counsel for applicant/accused
Sh. Vikram Kashyap , Addl. PP for the State.

ORDER

1. This order of mine shall dispose of anticipatory bail application under Section 438 Cr. P.C filed on behalf of applicant/accused Chetan Singh alias Chetanbir Singh, in case FIR No.8 dated 15.01.2021, Offence U/s. U/s. 307, 452, 323, 148, 149, subsequently added under Section 308, 324 IPC, Police Station Dorangala.
2. Allegations are that present FIR has been got registered on the statement of Onkar Singh alias Kalu son of Gurnam Singh, resident of Village Sandalpur, P.S. Dorangala, who stated in his statement that he is resident of aforementioned address and they are two brothers. His elder brother namely Harbhinder

Singh, is doing the labour work. His neighbourer Gurwinder Singh son of Kirpal Singh, used to take peep in their house while passing through street. On 12.12.2020, a little altercation took place between Gurwinder Singh and him for this reason. So, keeping this grudge on 13.12.2020, Gurwinder Singh armed with Kirch, Davinder Singh son of Wassan Singh armed with Kirpan, Simarjit Singh son of Iqbal Singh, armed with Dattar, Chetan Singh son of Iqbal Singh, armed with club, Baljinder Singh son of Gulzar Singh, Beant Singh son of Mohinder Singh and Shingardeep Singh armed with clubs alongwith accused-applicant wife of Davinder Singh, empty handed, while shouting lalkara came in front of his house and at that time the light of courtyard of his house was on. It was at about 4.00 A.M. Gurwinder Singh started abusing loudly. Sandeep Kaur raised a lalkara and exhorted other assailants to not to let him alive. Gurwinder Singh scaled wall of his house and entered into his house and thereafter opened the main gate of his house from its inside and thereafter all the other accused came into his house. On arriving into house, Davinder Singh gave a Kirpan blow which hit on the right side of his head. Then Davinder Singh gave a Kirpan blow from its reverse side which hit on the left side of his forehead. Gurwinder Singh gave a Kirch blow on his right waist. Simranjit Singh gave a Dattar blows from its reverse side which hit on right side of his stomach and left elbow. Then Chetan Singh gave thrice club

blows which hit on his left wrist, left shoulder and right shoulder respectively. He fell down and Baljinder Singh gave two club blows which hit on his backside. Then Beant Singh gave a club blow which hit on the backside of his right shoulder. His brother Harphinder Singh came forward to rescue him then all the assailants also gave injuries to him. He alongwith his brother raised “ Maar Ditta, Maar Ditta”. On this, all the accused left the spot with their respective weapons. Whole occurrence was witnessed by his Simarjeet Kaur and mother Piar Kaur. His cousin Tarunpreet son of Shingara Singh arranged the vehicle and took both the injured at Civil Hospital, Gurdaspur, where they medico-legally examined. On the basis of this statement, present FIR was got registered against the accused/applicant and others.

3. Because of this reason, accused-applicant is apprehending his arrest.
4. Upon notice, Sh. Vikram Kashyap Ld. Addl. P.P appeared on behalf of the State.
5. Record has been produced.
6. Arguments heard.
7. Contention of Sh. Sanjot Singh Harra, Advocate, counsel for the applicant/accused is that accused-applicant has been falsely implicated in the present case. His argument is that co-accused of accused-applicant namely Sandeep Kaur, has

already been granted the benefit of anticipatory bail by this Court vide order dated 22.01.2021. No serious injury is attributed to the accused-applicant. His contention is that applicant is juvenile of the age of about 16 years. It is not possible that he will indulge in such like activity. In case, he is sent to custody then he will come in close contact with hardened criminals.

8. With regard to maintainability of application for anticipatory bail by juvenile, he places reliance upon the pronouncement of Hon'ble Punjab & Haryana High Court in case titled as **Krishan Kumar minor through his mother Vs. State of Haryana 2020(3) R.C.R.(Criminal) 180.**

9. Applicant/accused is ready to join investigation and co operate with the Investigating Agency. So, his prayer that anticipatory bail moved by the accused-applicant be allowed.

10. On the other hand, these submissions have been refuted by Sh. Vikram Kashyap, Ld. Addl. PP for the State, who argued that allegations against the accused-applicant are very serious. It has been argued that juvenile is not entitled for anticipatory bail under Section 438 Cr.P.C. His contention is that if allegations are serious then even juvenile also is not entitled for bail. In these circumstances, no case is made out for grant of anticipatory bail. Prayer has been made that application be dismissed.

11. Submissions have been considered and file has been perused by me.

12. With regard to maintainability of application for anticipatory bail to juvenile, the Hon'ble Punjab & Haryana High Court in case titled as **Krishan Kumar minor through his mother Vs. State of Haryana** (supra) held that:

“Juvenile Justice Act is piece of social welfare legislation, which was enacted to take care of welfare of children and to avoid their turning into hardened criminals. If this special enactment is silent as regard particular provision then that has to be read with general law i.e. Cr.P.C. - Inference can certainly be not drawn that legislature intended to debar juvenile from seeking relief of pre-arrest bail – If it was also, then specific provision in that regard would have been there.”

13. In the present case, co-accused of accused-applicant namely Sandeep Kaur, has already been granted the benefit of anticipatory bail by this Court vide order dated 22.01.2021. Accused-applicant is of the age of 16 years. Allegations against the accused-applicant are matter of proof. This Court considers that in case, juvenile is sent to custody and he is allowed to be kept in police custody, then, there are chances of his coming into contact with hardened criminals. This Court considers that investigation pertaining to applicant-accused can be effectively carried out without his custodial interrogation.

14. Hence, application moved by applicant/accused stands allowed and it is ordered that applicant/accused in the present case will join the investigation within 10 days from today and will fully cooperate and assist the Investigating Agency. On his doing so, in

the event of arrest of applicant/accused, he will be released on bail to the satisfaction of I.O/Arresting Officer subject to the following condition:-

He/She shall make herself/himself available for interrogation by a police officer as and when required.

- He/she 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;
- and
- He/she shall not leave India without previous permission of the Court .

15. In case, accused-applicant fail to comply with the order of the Court as ordered above, then anticipatory bail application moved by accused-applicant will be deemed to be dismissed.

16. It is made clear that I.O of the present case will make every effort to join the applicant/accused in the investigation by taking the condition of applicant/accused into consideration that she/he will be unable to appear in the Police Station time and again due to problem of Covid-19 (Corona-virus), going on in these days.

17. In case, accused-applicant feels any inconvenience from the side of investigating officer to join in investigation as per the order then in order to join in investigation he/she can approach to Ld. Illaqa Magistrate/Duty Magistrate. On this, Ld.

Illaqa Magistrate/Duty Magistrate, will make required directions to investigating officer/arresting officer to join the accused-applicant in investigation.

18. Record be returned immediately.

19. File be consigned to the record room.

Dated:-28.01.2021
Sanjeev Kumar
Stenographer-I

(K.K.Singla)
Additional Sessions Judge,
Gurdaspur.
UID No. PB 0197

Present:- Sh. Sanjot Singh Harra, Advocate, counsel for
applicant/accused

Sh. Vikram Kashyap , Addl. PP for the State.

Sh. Vikram Kashyap , Addl. PP has put in appearance on behalf
of State.

Arguments heard. Vide my separate order, the anticipatory bail
application moved by accused-applicant stands allowed as stated therein.

Record be returned and bail application file be consigned to the
record room, Gurdaspur.

Dated:28.01.2021	(K.K.Singla)
Sanjeev Kumar	Additional Sessions Judge,
Stenographer-I	Gurdaspur.
	UID No. PB 0197