

In the Court of Rupinderjit Chahal, Sessions Judge, Jalandhar.
(UID No. PB00054)

CIS No. BA-2714-2022

CNR No. PBJL010078522022

Date of Institution. 08.07.2022.

Date of Order: 12.07.2022.

Tinu Kapoor, aged about 22 years, son of Kamal Kapoor, resident of House No. ED-56-E, Dhan Mohalla, Jalandhar.

-----Applicant.

Versus.

State of Punjab.

-----Respondent.

DDR No. 22 dated 21.01.2022

under Sections 323,324,325,326,506,148,149 IPC

Police Station Division No.3, Jalandhar.

First bail application under Section 438 Cr.P.C.

Present: Shri Nikhil Sharma, Advocate, counsel for applicant.
Shri Manoj Kumar, Addl. Public Prosecutor for the State.

ORDER

1. By way of present bail application, the applicant-accused has sought anticipatory bail in the above-noted case.
2. Notice of the bail application was given to the respondent-State and record has been requisitioned.
3. The brief facts of the case are that a case FIR No. 107 dated 03.09.2021 under Sections 323,324,325,326,506,34 IPC was registered on the statement of Lokesh and in the said case the present cross-version has

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been recorded on the statement of Mukesh Kumar wherein he has stated that he and his brother Pankaj @ Sunny are running a tyre repair shop. On 30.08.2021 at about 3:30 p.m. the tyre of bullet motorcycle of Lokesh had flattened and he came to their shop for its repair. He repaired the tyre but there was another puncture in the tyre. When he brought this fact to the notice of Lokesh, he blamed that he (complainant) intentionally damaged his tyre and asked to replace the old tube with new tube. When he refused to do so, Lokesh started abusing him. Lokesh called his friend Kulwinder son of Vijay Kumar and his father Ram Nath to his shop by making a telephonic call. The accused abused and threatened to kill him. However, with the intervention of people, the accused went to their house. At about 8:30 p.m. Lokesh Kumar, Sumit, Tinu and Mahesh came in front of their house and raised lalkara that they be taught a lesson for not replacing tube of the motorcycle. On hearing their noise, he, his sister Sonia and brother came outside. The accused were armed with weapons. The accused started abusing his sister and also slapped her. When they came forward, Lokesh gave a dattar blow, which hit on the little finger of his right hand. Kulwinder aimed a rod blow towards his head but the blow hit his left arm. When his brother Pankaj @ Sunny came forward, accused Ram Nath gave an iron rod blow, hitting the right arm of his brother. They fell down. Tinu, Mahesh and Sourav Sharma beaten them with the help of baseball bats. They raised alarm, whereupon all the accused ran away from the spot with their weapons.

4. I have heard the learned counsel for the applicant-accused, learned Addl. Public Prosecutor for the State and have perused the record of the case.

5. The learned counsel for the applicant-accused has argued that accused-applicant is innocent and has been falsely implicated in the present case. He further argued that FIR No. 107 dated 03.09.2021 under Sections 323,324,326,506,34 IPC was registered against the complainant party and as counter blast to the said FIR, the complainant got registered the present cross-version by concocting a false story and fabricating injuries on their persons. He further argued that in his earlier statement, on the basis of which DDR no. 35 dated 13.09.2021 was recorded, the complainant has not attributed any injury to the present applicant-accused and now after a lapse of four months, the complainant has concocted a false story and falsely implicated the applicant-accused in the present case. He further argued that applicant-accused was neither present at the spot nor he caused any injuries on the person of any body. He further argued that even as per case of the prosecution the injuries attributed to the applicant-accused are simple in nature. He further argued that applicant-accused is not required for any custodial interrogation as no recovery is to be effected from him. He further argued that applicant-accused is ready to join the investigation of the case. Thus, he prayed that benefit of anticipatory bail may kindly be extended in favour of the applicant-accused.

6. On the other hand, learned Addl. Public Prosecutor has opposed the bail application by contending that applicant-accused has actively participated in the occurrence in question. He further argued that applicant-accused along with his co-accused raised lalkara and then while sharing common intention with his co-accused, caused injuries on the person of injured Mukesh Kumar and his brother Pankaj with the help of baseball bat. He further argued that for the recovery of weapon of offence as well as for the proper investigation of the case, the custodial interrogation of the accused-applicant is required. He next argued that case is at the initial stage of investigation and if the accused-applicant is released on anticipatory bail, then there are chances of his tampering with the prosecution evidence. He prayed for dismissal of the bail application.

7. I have given my thoughtful consideration to the rival contentions of both the sides. A perusal of the medical evidence on record reveals that complainant Mukesh suffered five injuries on his person, including fracture of ulna bone of left forearm and this injury was declared as grievous in nature whereas injured Pankaj received one injury on his person. As per case of the prosecution, at the time of occurrence, the applicant-accused was armed with a baseball bat, which is yet to be recovered from him. The contention of learned Addl. Public Prosecutor that investigation is at its initial stage and if the accused-applicant is released on anticipatory bail, then there are chances of tampering with the prosecution evidence, appears to be reasonable. Therefore, considering the allegations against the accused-applicant, coupled with the nature of

injuries and the arguments advanced by learned Addl. Public Prosecutor for the State, the accused-applicant is not found entitled to concession of anticipatory bail. Accordingly, the bail application stands dismissed.

8. Any observation made here-in-before shall not have any bearing on the merits of the case. Police record be returned. File be consigned to the Record Room.

Pronounced in open Court.
Dated: 12.07.2022.

Davinder Singh, JW

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