

PBGD010029292019



Presented on : 30-01-2019
Registered on : 30-01-2019
Decided on : 06-02-2019
Duration : 0 years, 0 months, 7 days

IN THE COURT OF
Additional District & Sessions Judge
AT ,Gurdaspur
(Presided Over by Sh. Krishan Kumar Singla)

BA/279/2019

Bail application No.45 of 30.1.2019

Sukhwinder Singh aged about 50 Years son of Sucha Singh,
residents of Village Dakhla P.S. Sadar, Gurdaspur Tehsil and
District Gurdaspur.

...Accused/applicant

Versus

State of Punjab

...Respondent.

F.I.R. No. 124 of 13.11.2018
Under section :323,324,341,506,326, 34 of
Indian Penal Code
Police Station : Sadar Gurdaspur.

Present : Sh Anand Mahajan, Advocate, counsel for applicant/accused.
Sh. Vickram Kashyap Addl. P.P for the State

ORDER.

1. Vide this order, I shall dispose of bail application filed by accused/applicant Sukhwinder Singh under Section 438 Cr.P.C for grant of anticipatory bail in FIR No. 124 of 13.11.2018 Under section :323,324,341,506,326, 34 of Indian Penal Code registered at Police Station : Sadar Gurdaspur.
2. Allegations are that the present cross version case of FIR No. 124 dated 13.11.2018 P.S Sadar Gurdaspur has been registered on the statement of Dalbir Singh son of of Dalip Singh R/o Dakhla with the allegations that on 11.11.2018 his sons Sukhwant Singh and Dharampreet Singh had gone to their field on motorcycle for taking fodder and he was going their on his motorcycle via cremation road. When, hey had reached one Killa short from their fields, it was at about 11 A.M, that Jaspal Singh son of Charan Singh armed with dattar, Tarsem Singh son of Charan Singh armed with dattar, Jatinder Singh son of Sukhdev Singh armed with sword , Sukhwinder Singh son of Sucha Singh empty handed all residents of Dakhla, suddenly came out from the cremation ground and stopped him. Thereafter Sukwhinder Singh raised a lalkara and shouted and instigated other persons to catch hold them and teach a lesson to him for passing through again and again on the passage.

After that Tarsem Singh gave a dater blow on him which hit on the left side of his head. He fell down from the motorcycle and then Jaspal Sgh gave a datar blow on him which hit below his left elbow. Then, Joginder Singh gave a sword blow to him which hit on his right arm and his son who were cutting the fodder came there and witnessed whole the occurrence and all the accused while giving threats to kill him had left the spot with their respective weapons. His son Sukhwant Singh arranged the vehicle and took him in Civil Hospital, Gurdaspur.

On the statement of complainant, FIR in question was registered against applicant/accused and others. Hence, this bail application.

3. Notice of the bail application was given to State. Sh. Vickram Kashyap, Ld. Addl. PP for the State put in appearance on behalf of State.
4. I have heard Sh. Anand Mahajan Adv, Ld. Counsel for applicant/accused and Sh Vickram Kashyap, Ld. Addl. PP for the State.
5. Contention of the Ld. Counsel for applicant/accused is that accused/applicant has been falsely implicated in this case. He argued that firstly FIR Case No. 124 dated 13.11.2018 case was registered on the statement of Jaspal Singh. In fact, it was accused Dalbir Singh and others who inflicted injuries on Jaspal Singh and

Tarsem Singh with their respective weapons. Statement of Dalbir Singh has been shown to be recorded on 17.11.2018 while occurrence took place on 11.11.2018. A cross case has been prepared by the opposite party in order to create defence. This is yet to be decided as to who was the aggressor party. No serious injury is attributed to applicant/accused. Custodial interrogation of applicant/accused is not necessary. It has been argued that applicant/accused is law abiding citizen. He is ready to join investigation and co-operate with the investigating Agency. So prayer has been made that application moved on behalf of applicant/accused for anticipatory bail be allowed.

6. These submissions have been refuted by Sh. Vickram Kashuap Ld. Addl. PP for the State. His argument is that one injury on the person of Dalbir Singh has been found to be grievous injury. Delay in giving statement by Dalbir Singh can not be attributed to injured. Weapons of offence are yet to be recovered. Mere this fact that this is a case of version and cross versions, can not be said to be sufficient for enlarging applicant/accused on bail. Number of assailants attacked injured Dalbir Singh when dispute was with regard to passage. In these circumstances, custodial interrogation of applicant/accused is necessary to facilitate investigation. Thereby, Ld. Addl. PP for the State prayed for dismissal of anticipatory bail application.

7. Submissions have been considered and record has been perused by me.
8. Allegations against applicant/accused are that accused/applicant alongwith others inflicted injuries on the person of Dalbir Singh. Though this is a case of version and cross version but one injury on the person of Dalbir Singh complainant has been found to be grievous injury. Weapons of offence are yet to be recovered.
9. It is settled law that order of pre arrest bail can not be allowed in a routine manner and to circumvent normal procedure of arrest, recovery of case property from the accused and the investigation by the police. The court has to see that the investigation is in the province of the police and an order of anticipatory bail should not operate as an inroad into the statutory powers of the police, in exercising the judicial discretion in granting the anticipatory bail in such type of serious matters. Hon'ble Apex Court in case titled as **Jai Parkash Singh Vs State of Bihar and another 2012 (2) RCR (CrI) 251** held that anticipatory bail can not be granted as a matter of rule.
10. Allegations in the present case are very serious.
11. With the above serious allegations, in case, applicant/accused is granted benefit of anticipatory bail, then he will encouraged to commit the similar offence time and again.

12. Facts and circumstances of the case are such that for effective investigation, custodial interrogation of applicant/accused is necessary in this case.
13. Hence, no case for anticipatory bail is made out. So anticipatory bail application moved on behalf of applicant/accused is hereby dismissed.
14. However, the observations made above will have no bearing on the merits of case.
15. Record of the case be returned and file of bail application be consigned to the record-room.

Pronounced
Dated:-6.2.2019

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

Prem Kumar
Stenographer-II

Present : Sh Anand Mahajan, Advocate, counsel for applicant/accused.
Sh. Vickram Kashyap Addl. P.P for the State

Arguments heard. Vide my separate detailed order announced today, the present bail application has been dismissed .

Record of the case be returned and file of bail application be consigned to the Record Room.

Pronounced
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(K.K.Singla)
Additional Sessions Judge,
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Prem Kumar
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