

**IN THE COURT OF RAVI GULATI
ADDITIONAL SESSIONS JUDGE, GURDASPUR**

CIS No. BA-2548-2023
CNR No. PBGD01-006081-2023
Date of Decision 18.08.2023

PBGD010060812023



1. Kewal Singh aged about 59 years son of Bachan Singh,
 2. Sukhwinder Singh aged about 51 years son of Santokh Singh,
- Both residents of village Aulakh Kalan, Tehsil Batala, District
Gurdaspur.

.....Accused/Applicants.

Versus

State of Punjab.

.....Respondent.

DDR No.20 dated 08.07.2023

Under Sections 323/324/148/149 IPC offences under sections 336/325/326 IPC and Section 27 of Arms Act were added later on.

in FIR No.99 dated 08.07.2023

Under Sections 323/324/148/49 IPC offences under sections 336/326 of IPC and Section 25 of Arms Act
Police Station Sri Hargobindpur.

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

Present: Sh. Mohit Mahajan Advocate for accused/applicants.
Sh. Vikram Kashyap Learned APP for State along with
Sh. S.S.Dhillon Advocate counsel for the complainant.

ORDER

Present bail application has been filed by
accused/applicants Kewal Singh and Sukhwinder Singh seeking

anticipatory bail under Section 438 of Cr.P.C. Both the accused/applicants have also placed on record their affidavits to the effect that this is their first bail application filed under section 438 Cr.P.C. Ahlmad of this court has also reported that no other bail application of the accused/applicants is pending or decided by any other court in this FIR.

2. Upon notice, learned APP for the State put in appearance on behalf of State and contested the bail application. Record has also been produced. Sh. S.S. Dhillon Advocate, counsel for the complainant also appeared and contested the bail application.

3. Learned counsel for the accused/applicants argued that they are innocent and have been falsely implicated in present case. In fact, complainant of this DDR alongwith his companions had caused injuries to Avtar Singh and Hardeep Singh and FIR No.99 dated 08.07.2023 under sections 326/324/323/336/148/149 of IPC and section 25 of Arms Act was registered against them. However the complainant also managed and fabricated injuries and got lodged cross case registered against the accused/applicants. He also argued that initially the offences in the DDR in question were only under sections 323/324/148 and 149 of IPC and they duly joined the investigation. However later on offences under sections 326/325/336 IPC and section 27 of Arms Act were added later on and now they apprehend their arrest at the hands of the police. He further contended that since the accused/applicant had already joined the

investigation earlier when aforesaid sections were not added, they are entitled for anticipatory bail. He also referred to judgment of Hon'ble Punjab & Haryana High Court in **Ninder Singh @ Harjinder Singh Vs. State of Punjab in CRM No.M-13835 of 2014** and prayed that accused be granted pre-arrest bail.

4. On the other hand, the learned APP for the State and learned counsel for the complainant argued that in view of the serious allegations against the accused/applicants and the nature of the injuries suffered by the complainant party, the accused/applicants are not entitled to pre-arrest bail and their custodial interrogation is required for proper and effective investigation. On these grounds, they prayed for dismissal of the bail application.

5. After hearing both the sides and after going through the record produced by the police official, this court finds that initially FIR No.99 dated 08.07.2023 was registered against Sarabjit Singh and others on the statement of Avtar Singh. Police also recorded statement of complainant Sarabjit Singh and on the basis of his statement, DDR in question no.20 dated 08.07.2023 was recorded and cross case was registered against the accused/applicants. As per the statement of complainant Sarabjit Singh, on 07.07.2023 at about 6:30 PM, he alongwith his wife Jaspinder Kaur and son Gurkaranbir Singh were going to village Aulakh Kalan. However when they reached near panchayati land which was taken on lease by him, he saw that Baljit Singh @ Balli armed with *dattar*, Sukhwinder Singh

armed with *dattar*, Prem Singh armed with *Dang*, Buta Singh armed with *Dang*, Gurmukh Singh armed with *Dang*, Kewal Singh armed with *dattar*, Avtar Singh armed with iron khurpa, Hardeep Singh armed with iron rod and Mangal Singh armed with pistol were taking away *bajra* crop from his land. When he confronted them, they attacked him. Baljit Singh @ Balli raised lalkara upon which Avtar Singh inflicted injury on left wrist of complainant with iron khurpa. Thereafter Sukhwinder Singh gave blow from the reverse side of *dattar* near his right eye and Hardeep Singh gave blow of the iron rod at the back side of his head. When his wife Jaspinder Kaur came forward to save him, Buta Singh gave *dang* blow to her on her right shoulder. Thereafter Sukhwinder Singh gave blow from the reverse side of the *dattar* near right bicep. After that Buta Singh gave *dang* blows which hit on left arm of his wife. Gurmukh Singh also gave *dang* blow on left shoulder of his wife and Baljit Singh gave blow from reverse side of the *dattar* on her right leg. After that Mangal Singh hit his wife Jaspinder Kaur with the butt of his pistol near her left eye. Harpreet Singh, brother of the complainant also came at the spot but accused also attacked him and Baljit Singh gave *dattar* blow on his left elbow. Thereafter Gurmukh Singh gave *dang* blow at the left shoulder of Harpreet Singh. After that Prem Singh and Kewal Singh hit Harpreet Singh at his back with their respective weapons. They ran inside the house of Ajit Singh to save themselves and Mangal Singh fired gun shots in the air.

6. In the backdrop of aforesaid facts, it comes out that this case is a cross version of the FIR which was registered against the complainant party. Copy of said FIR is also placed on record wherein similar kind of allegations have been made against the complainant party that they attacked Avtar Singh and Hardeep Singh. Copies of MLRs of Hardeep Singh and Avtar Singh are also placed on record. The bone of contention between the parties is panchayati land. The injuries attributed to the present accused/applicants namely Kewal Singh and Sukhwinder Singh are simple in nature. It is also not disputed fact that offences under sections 336/325/326 IPC and section 27 of Arms Act were added later on in the present DDR vide DDR No.24 dated 29.07.2023. By that time, the accused/applicants had already joined the investigation as earlier all the offences were bailable in nature. Moreover, this court is also of the opinion that when this is a cross version, it cannot be ascertained at this stage as to who was the aggressor party and it would be the moot point to be decided during the course of trial. The judgment relied upon by learned counsel for accused/applicants in **Ninder Singh (supra)** is exactly on the similar point. Therefore, without commenting upon the question of culpability, this court is of the opinion that in the peculiar facts and circumstances of the present case, the custodial interrogation of the accused/applicants is not required at this stage as they had already joined the investigation before the addition of sections involving non bailable offences. The question as to who was

the aggressor party is yet to be proved. Thus it would be in larger interest of justice and investigation that accused/applicants be directed to join the investigation as their custodial interrogation is not required. Therefore, the accused/applicants are granted interim bail till 25.08.2023 provided that they join the investigation. As such, accused/applicants are hereby ordered to join the investigation before the Investigating Officer on or before 25.08.2023, subject to the following conditions that:-

1. That they shall not hinder the ongoing investigation;
2. That they shall not leave the country without prior permission of the Court;
3. That they shall not make any threat, promise or inducement to any person conversant with the facts of the case to dissuade him/her from disclosing the truth to the Court or police;
4. That they shall join the investigation as and when asked by the investigating officer,
5. That they shall cooperate with investigation in the matter of present case and further subject to the fulfillment of Section 438(2) Cr.P.C

However, observations made hereinabove shall have no effect on the merits of the case. Now to come up on 28.08.2023 for report and consideration.

Pronounced
Dated:18.08.2023.
Shiv Kumar, Stenographer-I

(Ravi Gulati)
Additional Sessions Judge,
Gurdaspur (UID No.PB0242)