

IN THE COURT OF MS.SONIA KINRA, ADDITIONAL SESSIONS
JUDGE, MOGA.

BA/CIS No.1816 of 2019
CNR No.PBMO010051672019
Date of Order: 7.9.2019

- State Versus
1. Amrik Singh aged 31 years son of Major Singh.
 2. Bawa Singh @ Baldev Singh aged 41 years son of Gurdev Singh.
 3. Amritpal Singh aged 37 years son of Raj Singh.
 4. Balour Singh aged 46 years son of Mukhtiar Singh.
 5. Kalu Singh @ Rajinder Singh aged 36 years son of Gurdev Singh, all residents of Village Hriewala, Tehsil Baghapurana, District Moga.

~~~Petitioners.

Application under Section 438 Cr.PC.

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Present: Sh.R.K.Sharma Advocate for petitioners
Sh. Anshuman Syal Addl.PP for State.

This order of mine will dispose of bail application moved by petitioners apprehending their arrest in FIR no. 36 dated 15.3.2019, under Sections 307, 341, 323, 148, 149 IPC, P.S. Baghapurana.

2. Learned counsel for the petitioners requested for anticipatory bail of the petitioners on the ground that they never caused any injury to the complainant or any body else and the petitioners are ready to join investigation. He has further argued that compromise has been arrived at between the parties and thus, interim bail may be granted to the petitioners. In support of his contention, he has relied upon the case of **Ajay Pal Singh & Others Versus State of Punjab** 1988 (1) RCR (CrI) 359 whereby interim bail was granted in the matter under Section 307 IPC.

3. On the other hand, the learned Addl.PP for the State has argued that petitioner Amrik Singh gave kirpan blow on the head of

injured Balwant Singh attracting the offence under Section 307 IPC and other accused/petitioners have also been attributed injuries on the person of the injured. Offence under Section 307 IPC has been attracted and therefore, the petitioners are not entitled to concession of anticipatory bail.

4. The FIR was registered on the statement of Satnam Singh to the effect that they are three brothers. He was a labourer. His maternal grandmother Gurnam Kaur was residing with them for the last about one year. On 5.3.2019, at about 5:00 p.m. she died. They wanted to perform her last rites to Hariewala. They informed their relatives and maternal uncles. They went for her last rites on 6.3.2019 at village Hariewala at the cremation ground where son, grandson of her maternal grand mother and other relatives also gathered. Amrik Singh and Balour Singh wanted to take the dead body to their home. On this, Balwant Singh opposed and they had a fight there. In hurry, they lit fire to the dead body. At about 11:00/11:30 a.m, Amrik Singh armed with kirpan, Bawa Singh armed with baseball, Amritpal Singh armed with iron rod, Balour Singh armed with brickbats and Kalu Singh son of Gurdev Singh came there. On coming, Amrik Singh with intention to kill, gave kirpan blow on the head of his brother Balwant Singh. Then Kalu Singh after restraining embraced him and Bawa Singh gave a baseball on the back side of right leg of his brother. His brother fell down on the ground. While lying on the ground, Amritpal Singh gave iron rod blow on his left foot. The complainant raised the alarm, on which their relatives came and got escaped his brother. The root cause of the dispute was that the accused persons wanted to take dead body of his maternal grand mother to their house but they restrained them.

5. Keeping in view the injuries on the person of Balwant Singh and the fact that offence under Section 307 IPC is attracted and the weapons of offence have to be recovered from the petitioners, I do not find that the petitioners are entitled to the concession of anticipatory bail. Even the case law **Ajaypal Singh (supra)** relied upon by the learned counsel for the petitioners does not mention about the facts of that case and no ratio decidendi has been laid down. Moreover, the facts of each

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and every criminal case are discernible. Keeping in view the above said discussion, the anticipatory bail application of the petitioners is dismissed. Record be returned and papers of this bail application be consigned to the Record Room.

Pronounced:

Dt.7.9.2019

Sanjeev Kumar, Stenographer-II

(Sonia Kinra)

Additional Sessions Judge, Moga.

UID PB-0176