

IN THE COURT OF DR RAM KUMAR SINGLA,
UID No. PB-0122,
ADDITIONAL SESSIONS JUDGE,
KAPURTHALA.

CNR No.
PBKP010043682021



Case No. BA/1768/2021

Presented on : 02-09-2021

Registered on : 03-09-2021

Decided on : 13-09-2021

Pawan Kumar, s/o Hans Raj, aged about 42 years, r/o H. No.89/A, Model
Town, Kapurthala.

..... Applicant/accused.

Versus

State of Punjab.

..... Respondent.

FIR No.23 of 28.01.2021,
Under Sections 326, 307, 324, 323, 148, 149, 120-B, 506 of
Indian Penal Code and
Section 25 of Arms Act, 1959,
Police Station – City, Kapurthala.

Application for anticipatory bail under Section 438 Cr.P.C.

Present: Sh.Vipan Sabharwal, Advocate for the applicant/accused.
Ms.Aarti Mehta, Additional PP for the State.

O R D E R

Record perused. **Arguments have been heard** on anticipatory
bail application of present applicant/ accused Pawan Kumar in FIR No.23 of
28.01.2021, as aforesaid.

2. Briefly, the facts and circumstances on record necessary to be mentioned herein for consideration of the present anticipatory bail application of the applicant/ accused are that the present case was registered at the instance of Amandeep Singh (hereinafter called as complainant) with the version that earlier, he was employed with liquor contractor Raman Kumar. On 27.01.2021, he along with his friend Umesh Kumar was present in the Kapurthala Market for some domestic affairs. As and when they were standing at a sweet shop to purchase some eatables in the area of Jallowkhana Chowk, one car make Creta, one Activa scooter and one motorcycle make Splendor appeared at the spot. Then, the driver of aforesaid car Creta namely Sumir son of Raman Kumar alighted from the car and raised a slogan to kill the complainant upon which, one of the aforesaid assailant namely Sunny Aneja @ Dodhi @ Harpreet Singh, gave his sickle blow towards the head of the complainant with the intention to kill the complainant, the complainant raised his arms to ward off that blow, which hit at the left wrist of the complainant. Then, **Pawan Kumar gave his sickle blow with the intention to kill the complainant, the complainant raised his arms to ward off that blow, which hit at the right arm of the complainant.** The other associate of the aforesaid assailants namely Jassa Lahoria gave his iron *khanda* (a symbolic Sikh religious article), which hit at the left ankle of the complainant. Then, Suraj gave his iron *khanda* (a symbolic Sikh religious article) blow, which hit at the back side of left side shoulder of the complainant. After that, Gopi @ Saili Nihang gave his bat blow, which hit at the right leg of the complainant.

Then, Rajan @ Dhigi gave his baseball bat blow, which hit at the right thigh of the complainant. Upon raising clamour by the complainant, his friend Umesh Kumar came forward to rescue the complainant from the clutches of aforesaid assailants, but he was also given injuries by the aforesaid assailants. Then, Gopi @ Saili raised his revolver towards the forehead of the complainant and fired shots in the air. Similarly, Rajan @ Dhigi also raised his revolver towards the forehead of the complainant and gave life threats to him and then fired shots in the air from his revolver, however, complainant was given kick blows by 2/3 unknown persons with the said assailants. Then people started gathering at the spot and all the aforesaid assailants ran away from the spot with the respective vehicles and weapons of offence. Afterwards, complainant removed to Civil Hospital Kapurthala by his wife, where he was medico-legally examined. The complainant also named Raman Kumar as master-mind of the aforesaid occurrence.

3. The motive behind the occurrence was that one month salary of the complainant was due towards the aforesaid Raman Kumar - contractor and to leave the job from him without his consent. To the said allegations, the present FIR was registered. During the investigation proceedings and after receiving the opinion qua injury No.1 at the person of complainant Amandeep Singh as grievous in nature, vide Rapat No.36 of 16.02.2021, section 326 of Indian Penal Code was also added in the present FIR. Apart from that, as per police record, that in consequent to further enquiry by the Deputy Superintendent of Police, Sub-Division Kapurthala, it has been recommended to delete the offence punishable under sections 307/ 120-B of

Indian Penal Code. During the investigation proceedings, non applicant Nahar Singh was apprehended in the present case on 25.06.2021 with the recovery of iron *Khanda (a symbolic Sikh religious article)* from him on the basis of his disclosure statement. Now, aggrieved from that, the applicant/accused Pawan Kumar preferred the present anticipatory bail.

4. The learned counsel for the applicant/ accused has argued that he has been falsely implicated in the present case. There is a delay in lodging the FIR. There are no such direct or indirect allegations against him, rather, the offence punishable under sections 307/120-B of Indian Penal Code has been recommended to be deleted in consequent to the further enquiry to the said allegations of occurrence. Anyway, the injury as allegedly attributed to the applicant is non vital part injury. Meaning thereby, the custodial interrogation of the applicant/ accused is not warranted in any manner. Therefore, the applicant/ accused is entitled to the concession of anticipatory bail, and he is ready to join the investigation proceedings.

5. The learned Addl.PP for the State has argued that the gravity of offence does not warrant the concession of anticipatory to the applicant/accused. There are direct and serious allegations against the applicant apart from other assailants. The custodial interrogation of the applicant is very much warranted to the episode of crime to give the logical end to that entire occurrence by the recovery of weapon of offence, etc. After the recommendation of deletion of offence punishable under sections 307/120-B of Indian Penal Code, the major injury is of the offence punishable under section 326 of Indian Penal Code, which is attributed to an associate of the

present applicant/ accused. To such allegations as are against the applicant/ accused, any such delay is not fatal at least for the purpose of anticipatory bail. Therefore, the applicant/ accused is not entitled to the concession of anticipatory bail and it is liable to be dismissed.

6. **Having heard** to their rival contentions and have gone through the file. Considering the aforesaid episode of crime, but without commenting on the merits of the case. As per the version of complainant and further proceedings thereto as got conducted by the investigation agency, there are direct allegations against the applicant/ accused and his associates, which are not only proving the presence of the applicant / accused at the spot, rather found that he played an active role also to commit that crime and he was also armed with a sickle, which was hit by him at the right arm of the complainant. An associate of the applicant/ accused put his revolver at the forehead of the complainant and threatened him with dire consequences by giving the fire shots of the revolver though in air. The applicant and his associates caused that injuries at the person of complainant with intention to kill him and he received six injuries at the person of complainant and five injuries at the person of Umesh Kumar, who came forward to rescue the complainant. All the assailants were armed with deadly weapons. Though with the addition of offence punishable under section 326 of Indian Penal Code, that it has been recommended to delete the offence punishable under sections 307/ 120-B of Indian Penal Code by the investigation agency, accordingly, the investigation proceedings are still under progress. But for the purpose of investigation and to give the logical end to that investigation

proceedings, the custodial interrogation of the applicant/ accused is very much warranted, especially having the direct allegations against him and to recover the weapon of offence from him. An FIR can not be an encyclopedia of a crime, rather custodial interrogation of such like offences will unearth the real story. Therefore, custodial interrogation of the applicant/ accused is found only answer.

7. Consequently, the present anticipatory bail of the applicant/ accused is hereby declined, being without merits. However, any observation made herein shall not be construed to be an expression on merits of the case. Police record be returned. This bail application file be consigned to the judicial record room.

Pronounced in open Court.
Dated: 13.09.2021.
Kaushal Kumar

(Dr Ram Kumar Singla),
Additional Sessions Judge,
Kapurthala. (UID No. PB-0122)

(Directly dictated on computer)