

IN THE COURT OF RAMESH KUMARI, (UID No.PB0039)
SESSIONS JUDGE, GURDASPUR

Bail Application No.173 of 2019
Date of Institution: 15.07.2019
Date of Decision: 18.07.2019

1. Moti Lal son of Kehro, aged 73 years,
 2. Ravi Kumar son of Yashpal,
 3. Ritik son of Khushal Chand,
- all residents of village Thanewal, Tehsil and District Gurdaspur,
P.S. Tibber

...Applicants/accused

Versus

State of Punjab

...Respondent

FIR No.49 dated 13.07.2019
Under Sections : 323, 452, 148, 149 IPC
Police Station: Tibber.

First Bail Application U/s 438 Cr.P.C.

Present: Shri R.S. Goraya, Advocate, counsel for applicants/accused.
Shri A.P.S. Sandhu, Public Prosecutor for the State.
Shri S.S. Dhillon, Advocate, counsel for complainant.

ORDER:

This order of mine shall dispose of the bail application under Section 438 of Criminal Procedure Code (hereinafter referred to as Cr.P.C.) filed by applicants/accused Moti Ram etc in case FIR No.49 dated 13.07.2019, under Sections 323, 452, 148, 149 IPC, registered at Police Station Tibber.

2. Notice of bail application was issued to the State and police record perused.

3. The brief facts of the prosecution case are that the aforesaid FIR has been registered at the instance of complainant Raj Kumar son of Om Pparkash, who in his complaint stated that on 09.07.2019 he had a minor dispute with Moti Lal of his village and thereafter the complainant had returned to his house. At about 9.00 p.m., Khushal Chand armed with baseball, Jaspal armed with baseball, Ritik armed with baseball, Varinder Kumar armed with dang, Ravi Kumar empty handed alongwith 2/3 unidentified persons came and entered the house of the complainant. Ravi Kumar raised a lalkara to teach a lesson to the complainant for raising dispute with his grandfather, whereupon Khushal Chand gave a baseball blow on the head of complainant, Yashpal gave baseball blow on the right side of head of complainant, Ritik gave baseball blow on the right shoulder of complainant. Complainant raised noise and then Varinder Kumar gave a dang blow, which hit on the little finger of left hand of complainant. On hearing noise, Jagmohan, brother of complainant, and Sandeep reached the spot and then all the accused persons alongwith their respective weapons ran away from the spot. The injured complainant was taken to the hospital for treatment. The matter was reported to the police and the police swung into action and the aforesaid FIR has been registered.

4. Learned counsel for the applicants/accused argued that applicants/accused are innocent and they have been falsely implicated in the present case. There is unexplained delay of 04 days in lodging

the FIR, which is fatal to the prosecution version. He further argued that applicant/accused Moti Lal has not been attributed any role. Applicant/accused Ravi Kumar was empty handed and the injury attributed to applicant/accused Ritik is on non-vital part of the complainant. He argued that no purpose would be served by sending the applicants/accused behind the bars and prayed for grant of anticipatory bail to the applicants/accused.

5. On the other hand, learned Public Prosecutor for the State, assisted by Shri S.S. Dhillon, Advocate, counsel for complainant, has argued that the applicants/accused alongwith other co-accused have caused injuries on the person of complainant. The allegations against applicants/accused are serious in nature and they should not be extended concession of anticipatory bail as they may hamper with investigation.

6. I have very thoughtfully considered the above rival contentions of both side and perused the police record.

7. As per prosecution version, applicants/accused Moti Lal and Ravi Kumar have not been attributed any injury or role in the occurrence, whereas injury attributed to applicant/accused Ritik by means of a baseball is on non-vital part of body of complainant, which falls under Section 323 IPC, which is bailable offence. The allegations levelled against the applicants/accused are yet to be ascertained during trial of the case. No purpose would be served by sending the applicants/accused behind the bars, especially when the

applicant/accused Moti Lal is 73 years of age. Therefore, without commenting upon merits of the case, the application for pre-arrest bail of applicants/accused is allowed and they are directed to join the investigation within three days from today with the Investigating Officer/SHO of the concerned police station and they shall be released on bail after joining the investigation to the satisfaction of the Investigating Officer/SHO subject to the conditions that:

- i) the applicants shall make themselves available for interrogation before the SHO/Investigating officer, as and when required; and
- (ii) That the applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him/her from disclosing such facts to the investigating officer/any police officer or to the Court.

A copy of this order be sent to the concerned police station for information. Police record be returned. Bail application file be consigned to the record room.

Pronounced:
18.07.2019

(Ramesh Kumari)
Sessions Judge, Gurdaspur.
(UID No.PB0039)

(*Vinay*)