

In the High Court of Punjab and Haryana at Chandigarh

Criminal Misc. No.M- 21749 of 2010 (O&M)
Date of decision: 30.7.2010

Kashmiri Lal

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.J.S.Thind , Advocate,
for the petitioner.

SABINA, J.

This petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in case FIR No. 88 dated 21.7.2009 under Sections 326/ 324/ 325/ 34, 427 of the Indian Penal Code, registered at Police Station Sadar Kapurthala.

The contents of the FIR, as reproduced in para 1 of the petition read as under:-

“Statement of Surinder Pal son of Yukab Masih caste Christian resident of Lakhanpur Kalan, P.S.Sadar Kapurthala aged about 70 years recorded his statement that I am the resident of above said address and working as a labourer. We are three brothers and

two sisters. My father Yukab Masih son of Nand Lal who has retired from the Punjab Police. He has not given any share from his land 5 acres 2 kanals nor ready for the same. But he has given the share to my younger brother Om Parkash and made a compromise with him and he is residing with Kashmiri Lal and most of the land has been transferred in his name. Dated 19.7.2009 myself along with my son Ajaik, daughter in law Jaspal kaur were sitting in the shadow of tree in the land at about 4.00 p.m. my brother Kashmiri Lal @ Babu, Darshana wife of Kashmiri Lal and Sheera brother of Darshana resident of Mullewal Khera along with Anthony son of Kashmiri Lal @ Babu resident of Bhug Sher came in the land by Ford Tractor which was taken on rent. They started cultivate the land and myself, my son and daughter in law restrained them then they start beating and gave abuses and left the place along with tractor then myself along with my family were taking meal and talking to each other at about 10/10.30 p.m. Darshana, Sheera son of Mehnga was carrying Kirpan, Kashmiri carrying Kirpan, Anthony carrying stick, they came from the farm side in the filed of corn and Darshana raise a lalkara that caught hold them and teach them a lesson for cultivating the land and also gave a taste for demanding the land. Sheera gave a

kirpan blow upon me which was hit upon my upper portion of eye while I was sitting on the cot then I fell down upon the cot. Then two sword blow was given to me by Kashmiri Lal upon my head when I was fell down. Then I raised my hand to save myself then that blow was caused injury upon the little finger and palm. Anthony gave a stick blow which was given upon my left leg and blow the knee then I raised a voice mar-ditta, mar-ditta. Then my son Ajaik and my daughter in law Jaspal Kaur and my wife Rani escaped from the hands of accused persons. They have seen all the incident through their eyes and my wife arranged the vehicle and got me in the Civil Hospital, Kapurthala. In the evening they removed our cottage and scattered the luggage and put the fire to the wooden. Above said persons by gave a beating and afterward they ran away along with their weapons and they did injustice towards by demolishing my cottage.”

Learned counsel for the petitioner has submitted that although grievous injury was attributed to the petitioner but the same was on the left hand of injured Surinder Pal. The petitioner is in possession of the land and from the contents of the FIR itself, it was evident that the complainant party was the aggressor.

After hearing learned counsel for the petitioner, I am of the opinion that no ground for grant of anticipatory bail to the

petitioner is made out.

The petitioner was armed with a sword at the time of alleged occurrence. He had inflicted two injuries on the person of complainant Surinder Pal. The grievous injury, which falls under Section 326 IPC, is attributed to the petitioner. At this stage, it can not be said that the complainant party was the aggressor. The petitioner might be required for custodial interrogation.

Accordingly, this petition is dismissed.

**(SABINA)
JUDGE**

July 30, 2010
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