

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM M-42350 of 2016

Date of Decision: December 6, 2016

Nafseem

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Ms. Monisha Lamba, Advocate
for the petitioner.

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M.M.S. BEDI, J. (ORAL)

Petitioner seeks the concession of pre-arrest bail in a case which was registered on the basis of the allegations levelled by Amin on October 15, 2014 that the petitioner along with his co-accused and 10/15 other people had constituted an unlawful assembly and threatened the complainant for having not cast votes as per their dictates. The complainant party was attacked with weapons by the members of unlawful assembly. Pursuant to the lathi and dang injuries given to Juber, Suhan and Bano, Bano died.

Counsel for the petitioner submits that it is a case of free fight in which cross-version has also been recorded. There was free firing but the

petitioner has not been attributed any role. The application for pre-arrest bail filed by the petitioner has been dismissed inter-alia on the ground that he had been absconding. Counsel for the petitioner has submitted that the order declaring the petitioner a proclaimed officer has been set aside by this Court today on account of statutory violations of Section 82 (1) Cr.P.C. It has been submitted that on account of no specific role having been attributed to the petitioner, he may be granted the concession of pre-arrest bail.

On asking of the Court, it has been informed that the co-accused of the petitioner have been facing trial and six PWs stand examined. No doubt the order declaring the petitioner a proclaimed offender has been set aside by this Court. The petitioner may be benefited by the setting aside of that order in protection of his property and the other serious consequences including the proceedings under Section 174 A Cr.P.C. but the petitioner being member of unlawful assembly being aware of all the proceedings against him and having intentionally avoided appearance till the examination of the PWs, cannot be granted the benefit of pre-arrest bail.

Counsel for the petitioner has sought to take the advantage of the statement made by PW2 omitting to name the petitioner.

No opinion can be expressed regarding the role of the petitioner as it is not feasible to determine whether the petitioner has misused his liberty to tamper with the evidence or threaten the witnesses or it is a case where he has been falsely implicated. The circumstances of the present case

and the conduct of the petitioner do not warrant grant of pre-arrest bail to him.

The petition is dismissed without prejudice to the rights of the petitioner to seek concession of regular bail. However, the petitioner may surrender before the competent authority within a period of 15 days and seek advantage of the circumstances in his favour which have been referred to in the present petition and seek regular bail if the circumstances so warrant.

It is ordered that in case the petitioner surrenders within a period of 15 days before the Illaqa Magistrate or the investigating officer, his application for regular bail will be decided by the Court of competent jurisdiction within a period of 3 to 4 days.

December 6, 2016
sanjay

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether Reportable:	Yes/No.