

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-26017 of 2017
Date of decision: 1.8.2017

Devender @ Bholey

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mrs.Baljit Mann, Advocate
for the petitioner.

Mr.Gaurav Bansal, AAG, Haryana

H.S. MADAAN, J.

The instant petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner Devender @ Bholey, an accused in FIR No.102 dated 26.5.2017 for offences under Sections 323, 506, 34 and 452 IPC (Section 452 since deleted and Section 307 added subsequently), registered with Police Station Hassanpur, Palwal.

Briefly stated, the facts of the case as per prosecution version are that on 19.5.2017 at about 9:00 p.m. when complainant Kamal son of Ram Swaroop, resident of village Bhiduki, Police Station Hassanpur, District Palwal, aged about 20 years and an agriculturist by avocation, was

present at his house, then accused Vinod son of Deepchand Master, who was empty handed, Devender @ Bholey son of Bansi armed with an iron rod, Amit son of Mohan and Paru son of Gyasi both empty handed, residents of village Bhiduki entered his house and started quarrelling with him. Bholey gave iron rod blow to complainant hitting him on head, whereas Vinod, Amit and Paru gave him kicks and fist blows. The complainant raised alarm which attracted his father Ram Swaroop and his elder brother Hari Om to the place of occurrence. On seeing them, the assailants ran away while saying that on that day complainant had been saved but in future on getting opportunity he would be done to death. The complainant had become unconscious as a result of receiving injury on head.

On registration of formal FIR, apprehending his arrest in this case, the petitioner had approached the Court of Sessions seeking grant of pre-arrest bail but his such application was dismissed by the Court of learned Additional Sessions Judge, Palwal vide order dated 14.7.2017, as such he has approached this Court asking for similar relief.

I have heard learned counsel for the parties besides going through the record and I find that there is no merit in the petition.

The petitioner is specifically named in the FIR. It was he who had inflicted iron rod blow to complainant on vital part i.e. head resulting in his getting unconscious and that very injury was found to be dangerous to life. As per NCCT scan of head, multiple fractures of frontal and temporal bones were seen on left side with associated extra cranial soft issue swelling. In that way, the petitioner is a main accused since his co-

accused are said to be empty handed at the relevant time and they had only given kicks and fist blows to the complainant. The custodial interrogation of the petitioner is necessary for complete and effective investigation so also to effect the recovery of the weapon from him and to find out the vital details of the incident. Admittedly, custodial interrogation is more elicitation oriented since a person, who is couched in comparative safety of pre-arrest bail would certainly not disclose all the facts within his knowledge which would be inculpatory for him. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely which is not called for.

Learned counsel for the petitioner argued that as per prosecution story only one injury had been given by the petitioner which was not repeated; that there is delay of about 6 days in lodging of the FIR which has not been explained and rather this period has been used to falsely implicate the petitioner; that offence under Section 452 IPC has already been deleted by the police finding that the incident had not taken place at the residential house of the complainant; that when the complainant was firstly medically examined on 22.5.2017, the doctor had found one lacerated wound on the left side of forehead of complainant, in that way the complainant had suffered only one blunt injury which was kept under observation. However, I find that these contentions are not of much relevance presently while deciding as to whether the petitioner is entitled to pre arrest bail or not. However, they may have relevance and

better application at the time of final trial.

Thus finding no merit in the petition, the same stands dismissed.

1.8.2017

Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No