

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

CRM-M-38046-2017

Date of decision: 20.11.2017

Deepak Kumar

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr. Saurabh Arora, Advocate
for the petitioner.

Ms.Samina Dhir, DAG, Punjab.

H.S. MADAAN, J.

The instant petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by petitioner Deepak Kumar, an accused in FIR No.65 dated 15.3.2015 for offences under Sections 452, 324, 323, 148, 149 IPC and Section 326 IPC(added later on), registered with Police Station Jandiala Garu, Amritsar Rural, District Amritsar.

Briefly stated, facts of the case as per prosecution story are that criminal machinery in this case was set into motion by complainant Harpreet Singh, who made a statement to the police stating therein that he

is having a marriage palace in the name & style of J.J. Banquet Hall situated near village Dharath on Jandiala-Wairowal Road; that on 11.3.2015 a marriage party was being organized in the said banquet hall; that the complainant was sitting in his office, which is part of the banquet hall, where general public is not allowed to enter; that during the said party, Deepak Kumar (present petitioner), who was incharge of stalls along with Seepa, Happy, Laadi and four unidentified youngsters entered the office of complainant forcibly and started hurling abuses upon him stating that earlier also, the complainant had restrained them from throwing the wastage of stalls on backside of the palace; that all of them gave beatings to complainant; that complainant raised alarm, which attracted staff of the palace there; then on seeing them, the assailants ran away; that thereafter complainant along with his maternal uncle Guralpal Singh left for Police Station Jandiala to report the matter regarding the incident; that when they had reached near the culvert of canal minor near Jandiala, Deepak Kumar armed with a sword, Seepa armed with an iron rod, Happy armed with a daatar, Laadi and other four unidentified persons raised *lalkara* saying that complainant be caught and taught a lesson for stopping them from throwing the wastage of stalls on backside of the palace; that Deepak Kumar gave a sword blow to complainant; that complainant raised his left arm to save himself, resultantly, the sword hit him near left elbow; then Happy gave daatar blow to complainant hitting him on right arm, which he had raised to save from the blow; that in the process, he had suffered injury near the right wrist; that then Seepa gave iron rod blow to complainant hitting him on right bicep; that after

suffering injuries, complainant fell on the ground; while he was lying there, Laadi gave a punch to complainant hitting him on right cheek, whereas other unidentified persons gave fist blows to him; that the complainant/injured raised alarm; that several people arrived there. On seeing them coming, the assailants ran away from the spot along with their respective weapons. Gurpal Singh maternal uncle of complainant/injured removed him to Community Health Centre, Maanawala from where keeping in view the fact that he had received multiple injuries, the complainant/injured was referred to Guru Nanak Dev Hospital, Amritsar, where he was treated and medico-legally examined.

Apprehending his arrest in this case, petitioner - accused had approached the Court of Sessions seeking grant of pre-arrest bail but his such application was dismissed by the Court learned Additional Sessions Judge, Amritsar vide order dated 23.6.2017. As such, he has approached this Court asking for similar relief.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the petitioner has argued that there is delay of four days in lodging the report with the police; that co-accused of the present petitioner namely Seepa has been granted pre-arrest bail by learned Additional Sessions Judge, Amritsar vide order dated 23.4.2015; that the present petitioner has since joined the investigation during the period of interim bail granted to him by this Court and that injury is on non-vital part, as such, he be granted pre-arrest bail.

Whereas learned State counsel has vehemently opposed the request contending that petitioner is the main accused to whom the grievous injury is attributed and his custodial interrogation is required for complete and effective investigation. Though the accused has joined the investigation but has not rendered full co-operation.

After hearing rival contentions of the parties, I find that no case for pre-arrest bail is made out. The allegations against the petitioner are quite grave and serious. It was he, who had caused grievous injury to the complainant by means of sword. The injury had hit right arm of complainant, which he had raised to save himself. If the complainant had not done so, the blow might have landed on his head or some other vital part of the body. The petitioner along with his accomplice had waylaid the complainant and his maternal uncle while they were going to police station to report the matter regarding the earlier incident, which had taken place in the banquet hall of the complainant. In that way, the petitioner along with his accomplice has shown great disregard for law. The custodial interrogation of the petitioner is definitely required for complete and effective investigation. 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.

As regards the co-accused Seepa of the petitioner having

been granted pre-arrest bail, the injury attributed to him was simple in nature. Therefore, the case of the petitioner is not at par with his co-accused Seepa.

As regards the delay in reporting the matter, in the FIR itself it has been mentioned that it was for the reason that efforts were being made by respectables to get the matter compromised, which could not finalized, as such, the matter was reported to the police. In that way explanation for delay has been furnished. Even otherwise, at the time of granting of bail, such like objections are not to be given much weightage.

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

20.11.2017
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No