

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

CRM-M-48905-2017

Date of decision: 19.1.2018

Makhan Singh

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr. Munish Puri, Advocate
for the petitioner.

Mr.Saurav Khurana, DAG, Punjab.

H.S. MADAAN, J.

The instant petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by petitioner – Makhan Singh, an accused in FIR No.44 dated 27.10.2017 for offences under Sections 353, 186, 332, 34 IPC, registered with Police Station Sadar, Pathankot, District Pathankot.

Briefly stated, the facts of the case as per prosecution version are that FIR was recorded on the basis of statement of Constable Aman Sharma, Driver, Police Post Nangal Bhoor, Police Station Sadar, Pathankot on 26.10.2017, wherein he stated that on the said date on receipt of a phone call from Nitish Kumar @ Ishu son of Kewal Krishan

from village Anerh to the effect that one Sukhdev Singh son of Puran Singh was hurling abuses, then a police party from the police station headed by HC Kuldeep Singh in official vehicle bearing registration No.PB-06G/0981, driven by such Constable Aman Sharma went to the spot, where Sukhdev Singh was present in the street and hurling abuses; that the police officials asked him not to do so, then Ajay Kumar @ Soku, Kamla Devi wife of Makhan Singh besides Sukhdev Singh son of Puran Singh and Makhan Singh son of Rulia Ram, residents of village started an altercation with them; that all such persons gave fist blows to the complainant and tore away the shirt of his official uniform besides pulling the shirt, resultantly all the buttons got removed; that HC Kuldeep Singh and Constable Tajinder Singh intervened and rescued complainant from assailants; that thereafter the assailants ran away from the spot.

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 by filing an application but his such application had been dismissed by learned Additional Sessions Judge, Pathankot vide order dated 7.12.2017, as such the petitioner has approached this Court asking for similar relief.

Notice of the petition was given to respondent – State, which put in appearance through counsel.

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 allegations against the petitioner are quite grave and serious of having participated in the incident assaulting a police official on duty and

damaging his uniform. Such type of acts cannot be taken lightly lest that should encourage the other persons to indulge in similar acts in a hope that they would go scot-free. The fate of the petitioner should act as a deterrence to the others so as not to dare attack some public servant on duty and obstruct such public official from discharging his duties. His custodial interrogation is definitely necessary to find out that under what circumstances the incident was planned and happened. It is well settled that 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 has stated that there is a counter version of the incident inasmuch Kamla Devi wife of Makhan Singh has filed a criminal complaint against the present complainant Constable Aman Sharma as well as HC Kuldeep Singh, Constable Tajinder Singh and Nitish Kumar levelling allegations of their trespassing in her house, assaulting her and her family members and then dragging her outside and putting her in a vehicle and taking her to Police Station Nangal Boor while accused Nos.1 to 3 were in civil clothes and that as a pressure tactics, the present FIR has been lodged. However, from copy of complaint placed on file, it cannot be made out as to when it was instituted in the Court. The allegations therein are yet to be

established, therefore, that does not affect the veracity of the allegations in the FIR.

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

19.1.2018

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(H.S.MADAAN)**JUDGE****Whether reasoned/speaking : Yes/No****Whether reportable : Yes/No**