

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

CRM-M-8314-2020(O&M)

Date of decision:-4.6.2020

Gagandeep Singh and another

...Petitioners

Versus

State of Punjab

...Respondent

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

Present: Mr.Hakam Singh, Advocate
for the petitioners.

Ms.Monika Jalota, DAG, Punjab.

Mr.Mohit Jaggi, Advocate
for the complainant.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioners – Gagandeep Singh and Varinder Singh, both accused in FIR No.400 dated 6.12.2019 for the offences under Sections 307, 341, 323, 148, 149 IPC, registered with Police Station Sohana,

District SAS Nagar (Mohali).

Briefly stated, the prosecution story is that criminal machinery in this case was set into motion by complainant Sukhjeet Singh son of Jaswant Singh, resident of village Maulibaidwan, P.S. Sohana, District Mohali by making statement to the police in which he stated that on 2.12.2019 at around 6:30 p.m., he after playing volleyball in the ground of his village was leaving that place along with his friends Rahul and Parminder; in the meanwhile Jaswinder Singh, who was playing volleyball with them came and had heated arguments with him with regard to the game of volleyball and he started hurling abuses; the complainant along with his friends left for their home; however after some time Jaswinder Singh along with his companions came in car bearing registration No.HR44H-7235 make XUV of white colour; all of them intercepted the complainant and his friends; two of those persons caught hold of the complainant and other started giving stick and pipe blows in his stomach with an intention to kill him; Jaswinder Singh was exhorting his friends to kill the complainant for arguing with him; the two friends of complainant accompanying him namely Rahul and Parminder tried to escape but the assailants gave beatings to them also; when several people started gathering at the spot on hearing noises, then the assailants ran away from the spot along with their weapons in the car. The injured was taken to hospital. He was medically treated and medico-legally examined. The injury suffered by the complainant was declared to be dangerous to life.

Jaswinder Singh accused was arrested in this case. During the course of his interrogation, he stated that he along with his cousin brother

Gagandeep Singh (petitioner No.1) and brother-in-law Varinder Singh (petitioner No.2) had given beatings to the complainant and his friends. FIR was registered and the investigation in the matter started.

Apprehending their arrest in this case, the petitioners had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, however, their such request was declined by learned Additional Sessions Judge, SAS Nagar (Mohali) vide order dated 19.2.2020. As such, the petitioners have approached this Court asking for similar relief, which is being resisted by the State counsel and counsel for the complainant.

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

Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from custodial interrogation.

As regards the plea raised on behalf of learned counsel for the petitioners that they are not named in the FIR and their names have cropped up during interrogation of co-accused Jaswinder Singh only and his such statement made to the police is not admissible, such contentions do not have much force.

The FIR is not a substantive piece of evidence and its only purpose is to set the criminal machinery in motion. FIR is often lodged in hurry and it may not contain the minute and precise details of the incident.

The FIR can be got registered by a person, who may not be an eye-witness

of the same. It is only during investigation of the case that police can come to know about the culprit and criminal, who had committed the crime. In the FIR, it is clearly mentioned that the main accused Jaswinder Singh was accompanied by four other persons and when Jaswinder Singh was arrested, he disclosed name of two of them as Gagandeep Singh and Varinder Singh, present petitioners, who are none else but his cousin brother and brother-in-law respectively. Such statement can certainly be taken into consideration for providing lead in the investigation. As per the prosecution story Jaswinder Singh along with his accomplices along with two petitioners before this Court had indulged in giving merciless assault to the complainant. The injury on his person has been declared as dangerous to life.

In case of *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Custodial interrogation of the petitioners is definitely required for complete and effective investigation so as to find out how the incident was planned and executed and part played by each one of the assailants. Recovery of weapons used in the incident is also to be effected. In case custodial interrogation of the petitioners 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.

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

4.6.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No