

CRM-M No.19435 of 2020

Date of Decision :23.07.2020

Cheta Singh

....Petitioner

Versus

State of Punjab

....Respondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present: Mr. Abhishek Singla, Advocate for the petitioner.
 Mr. Sidakmeet Sandhu, AAG, Punjab.
 Mr. Balraj Singh Sidhu, Advocate for the complainant.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to the outbreak of Covid-19 pandemic.
2. Prayer in the petition under Section 438 Cr.P.C. is for grant of anticipatory bail/pre-arrest bail to the petitioner in case FIR No.127 dated 08.07.2020, registered under Sections 452, 427, 323, 336 and 34 IPC at Police Station Talwandi Sabo, District Bathinda.
3. As per the FIR, the complainant who was working in his laboratory at about 7.45 p.m. on 07.07.2020 was attacked by the petitioner, armed with *takua* along with an unidentified person armed with *kirpan* besides 02 other unidentified persons armed with sticks, by raising *lalkara* that lesson be taught to the complainant for not entering into compromise. Earlier on 03.07.2020, the accused had fired in the air to frighten the complainant for which talks of compromise were going on before Panchayat, whereas the complainant wanted action to be taken against the petitioner on account of which the petitioner and other unidentified persons

his shop besides dragged him outside. Allegation is that the petitioner, who was armed with *takua* hit the complainant on the elbow of his right arm, whereas the unidentified person attacked the complainant with *kirpan*, on the shoulder of his left arm, where after the petitioner again attacked with *takua* which hit the complainant on the elbow of his left arm, whereas unidentified person attacked the complainant with *kirpan* which hit him on the shoulder of his right arm. The petitioner, thereafter, told his accomplices to drag the complainant outside the shop, whereupon the unidentified persons gave stick blows to the complainant on account of which he sustained injuries on his back. Due to dragging, the complainant got bruises on his knees and other parts of the body and it was only on his raising alarm of '*marta marta*' and one Kuldeep Singh @ Prem Singh son of Kapoor Singh and his father Aala Singh coming to the spot and raising *lalkara*, that the accused fled from the spot along with their weapons in innova car bearing No.0132 of white colour which was standing on the street. MLR produced reflects the following injuries:-

- “1. *Reddish abrasion size 10cm x 2.5 cm + nt over back (posterior aspect) of chest, left side, slight below scapula (lower border of scapula) c/o – pain + nt. Adv. x-ray & ortho opinion.*
2. *Incised wound size 4.5 cm x 0.2 cm x muscle deep + nt over rt. arm, proximal 1/3rd region lateral aspect. Fresh bleeding + nt. Sharp margins. Adv. x-ray & ortho opinion.*
3. *Incised wound size 3.5 cm x 0.2 cm x skin deep + nt over rt. Arm, 6 cm above elbow joint, lateral*

- aspect. Fresh blood oozing. sharp margins. Adv. x-ray & ortho opinion.*
4. *Incised wound size 5cm x 0.5cm x muscle deep + nt over left arm. Distal 1/3rd region. Lateral aspect. Fresh bleeding + nt. Sharp margins. Adv. x-Ray & ortho opinon.*
 5. *Incised wound size 4 cm x 0.3 cm x muscle deep + nt over left arm proximal 1/3rd region lateral aspect. Fresh bleeding + nt. Sharp margins. Adv. x-Ray & ortho opinion.*
 6. *Reddish abrasion size 4cm x 2 cm + nt. over left knee joint anterior aspect c/o Pain + nt. Adv. x-Ray & ortho opinion.*
 7. *Reddish abrasion size 3cm x 1.5 cm + nt. over right knee joint anterior aspect c/o Pain + nt. Adv. x-Ray & ortho opinion.”*

4. Learned AAG Punjab, on instructions from ASI Nirmal Singh states that the complainant has been placed under observation and opinion as to whether the injuries are simple or grievous in nature is awaited. However, while injury Nos.1, 6 & 7 is stated to have been caused with blunt weapon, injury Nos.2, 3, 4 & 5 is stated to have been caused with sharp weapon Learned State Counsel further states that the offence under Section 452 IPC is punishable with imprisonment, which may extend to 07 years and that in case, the petitioner is granted pre-arrest bail, investigation of the case which is at the initial stage would be hampered.

5. Learned counsel for the petitioner contends that admittedly altercation took place but the petitioner also sustained injuries.

However, no evidence in respect thereto has been referred by learned counsel as being on record. The complainant is still in hospital and under observation. Investigation is in progress. Recovery of the weapons is yet to be made besides the identity of unknown co-accused is also to be ascertained. The learned trial Court dismissed the application of the petitioner for pre-arrest bail by relying on the decision of Hon'ble the Supreme Court in '**CBI** versus **Anil Sharma**' 1994 (4) RCR (Crl.) 268 by observing that effective interrogation in a case like this would not be possible if the protective umbrella of anticipatory bail was available to the accused, as in said situation, interrogation of the accused would become an empty formality.

6. Taking into account all aspects of the matter, I am of the considered view that the order passed by the learned trial Court does not suffer from any infirmity nor warrants any interference. Accordingly, the petition for pre-arrest bail is ***dismissed***. However, nothing said in this order shall be taken to be an expression of opinion on the merits of the case.

(B.S. Walia)
Judge

July 23, 2020
'Rajneesh/Amit'

Whether speaking/ reasoned	:	Yes/No
Whether reportable	:	Yes/No