

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-19907 of 2020 (O&M)

Date of decision : 19.8.2020

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Krishan Kumar minor through
his mother

.....Petitioner

vs.

State of Haryana

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Dheeraj Narula, Advocate
for the petitioner.

Mr. Tanuj Sharma, Assistant Advocate General,
Haryana.

Mr. Aditya Sanghi, Advocate for the complainant

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H. S. Madaan, J. (Oral)

Case taken up through video conferencing.

This petition for grant of pre-arrest bail has been filed by petitioner Krishan Kumar – minor, aged about 16 years, as such a juvenile, resident of village Talwara Khurd, Tehsil Ellenabad, District Sirsa, through his mother Bhagwanti, who is an accused juvenile in conflict with law in FIR No. 221 dated 15.9.2019 for offences under Sections 323, 324, 341, 365, 367, 379, 506 and 34 IPC, registered at Police Station Ellenabad, District Sirsa.

Briefly stated, facts of the case as per the prosecution story are that, on 14.9.2019 at about 10:15 p.m. while complainant Rakesh Kumar son of Tilak Raj, resident of Talwara Khurd, Ellenabad was sitting in his fields, then Lal Chand, his wife Bhagwanti, his son Krishan Kumar (present petitioner) and brother Sukhdev Singh came and started abusing him; Lal Chand gave a gandasi blow on his head and right arm, whereas wife of Lal Chand and his son (present petitioner) were having dandas and Sukhdev Singh was having datar; they said that the complainant was not giving passage to them and all of them attacked the complainant; wife of Lal Chand and his son (present petitioner) attacked him with dandas causing him injuries on right leg and waist; Sukhdev Singh gave blow of datar on left elbow of left hand; Lal Chand gave blows of gandasi on head and right arm of the complainant, then they tied his hands and feet with rope, gave him slaps and fist blows, took him towards katcha passage of his house and dragged him there; ultimately he was rescued and assailants ran away, in the process taking away Rs.5,000/-, a mobile phone and a gold chain of the complainant.

Apprehending his arrest in this case, the petitioner had approached the Court of Sessions at Sirsa, seeking pre-arrest bail. However, his such application, which was assigned to Additional Sessions Judge, Sirsa, was dismissed, being not maintainable vide order dated 8.7.2020.

Feeling aggrieved, he has knocked at the door of this court, craving for grant of similar relief, which prayer is being opposed by

the State counsel, as well as counsel appearing for the complainant.

I have heard learned counsel for the petitioner, learned State counsel, assisted by learned counsel for the complainant, besides going through the record.

Learned counsel for the petitioner has contended that there is cross version of the incident, in terms of which on the date of incident i.e. on 14.9.2019, complainant Rakesh Kumar, had himself forcibly trespassed into house of the accused party and inflicted injuries to Lal Chand - father and Bhagwanti - mother of the present petitioner. However, the police had not taken any action in the matter. Smt. Bhagwanti, mother of the present petitioner has been granted interim bail by this Court. In terms of last order dated 24.7.2020, the present petitioner was also granted interim bail with a direction to join the investigation and he has since done so. Therefore, the present petition for grant of pre-arrest bail be accepted.

Though, learned counsel for the complainant has opposed the present petition, but learned State counsel, on instructions from ASI Ram Pal, has stated that as the petitioner has joined the investigation and danda used in the incident has been recovered from him, therefore, his custodial interrogation is not required by the Investigating Agency.

Keeping in view the facts and circumstances of the case, I find that the petition deserves to be accepted. The same is accordingly, allowed. The interim bail granted to the petitioner vide order dated 24.7.2020 is made absolute, subject to fulfillment of

following conditions:-

- i) that the petitioner shall join the investigation as and when so directed by the Investigating Officer.
- ii) that the petitioner shall appear in the Court/Juvenile Justice Board on each and every date of hearing.
- iii) that the petitioner shall not give any threat or intimidation to the prosecution witnesses.
- iv) that the petitioner shall not leave India without the prior permission of the Court.
- v) that the petitioner shall surrender his passport before the Investigating Officer and if he is not having passport then he shall file an affidavit in that regard.

In case the petitioner violates any term and condition on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of bail.

However, nothing discussed above shall have any bearing on the merits of the case.

19.8.2020
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No