

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-28296-2020

Date of Decision : 17.09.2020

Manvir Singh @ Malhi

...Petitioner

Versus

State of Punjab

....Respondent

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

Present : Mr. K.S. Dhillon, Advocate for the petitioner.
Mr. S.P.S. Tinna, Addl. AG, Punjab.

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 of Cr.P.C., is for grant of anticipatory bail to the petitioner in case FIR No.39 dated 14.03.2020, registered under Sections 323, 324, 148 and 149, IPC, 1860, at Police Station Kartarpur, Jalandhar Rural, District Jalandhar to which Section 326 IPC was added later on.
3. Learned counsel contends that the injuries attributed to the petitioner are simple in nature, there was delay of 7 days in registering the FIR therefore the petitioner is entitled to grant of pre arrest bail.
4. As per the FIR, on 07.03.2020, the complainant Amrik Singh had gone with his neighbour Manjit Singh to village Bhagwanpur to witness a dog race at about 10:30 PM, when the petitioner, armed with Kirpan (Sword), Bobby Nahar armed with gandasa, Jaspal Singh alias Lovely armed with Datar, Raja Bajwa armed with baseball accompanied by some unknown

boys came towards the complainant, petitioner raised lalkara to catch the complainant and not spare him, thereafter the petitioner inflicted kirpan (sword) blow on the right side of mouth of the complainant, Bobby Nahar gave two gandas blows near the elbow of the complainant, Surinder Singh gave rod blow near the right shoulder of the complainant, Sukhjinder Singh gave datar blow on right knee of the complainant, the complainant fell down, then Zora gave datar blow four times in a row on the left hand of the complainant, Jaspal Singh gave datar blow on the palm of the hand of the complainant, Raja gave baseball blow twice on the left leg of the complainant, petitioner gave kirpan (sword) blow on the back of the right hand of the complainant, Surinder Singh gave rod blow on the thigh and other body parts of the complainant while the other unknown assailants gave deep beating to the complainant. However, on complainant raising noise of marditta-marditta, the assailants ran away from the spot along with their weapons. Thereafter, Manjit Singh son of Jagtar Singh arranged a vehicle and got the complainant admitted in Civil Hospital, Kapurthala, from where the complainant was referred to Joshi Hospital on 09.03.2020. Reason for the fight was that the complainant had a quarrel about one year prior to the date of incident.

5. Learned Addl. AG, Punjab, on the basis of instructions from ASI, Bodh Raj, states that out of 14 injuries, inflicted by the accused, injury Nos.1 and 13 caused by a Kirpan (Sword) are attributed to the petitioner, that the complainant was unfit to make statement on 08.03.2020 and was declared fit to make a statement only on 10.03.2020, the petitioner was a member of an unlawful assembly, that since Section 149 had been invoked,

individual role was irrelevant, even otherwise, the attack was meticulously planned by a group of which the petitioner was an active participant, that the petitioner was having kirpan (sword), with which he caused injuries to the complainant, that identity of unknown assailants is to be ascertained besides, weapons used in the commission of the offence recovered, therefore, it is not a fit case for grant of pre-arrest bail to the petitioner.

6. I have considered the submissions of learned counsel for the parties.

7. The reason for attack was previous dispute between the parties one year prior to the date of incident. The attack on the complainant appears to be a planned attack by a number of assailants of which the petitioner was an active participant. Admittedly fourteen injuries were caused to the complainant by the accused out of which injury Nos.1 and 13 are attributed as having been inflicted with a Kirpan (Sword) by the petitioner. Although FIR was initially registered under Sections 323, 324, 148 and 149 of IPC, offence U/s 326 IPC was added later on. No doubt there is delay in lodging of FIR but the same has been explained due to the complainant being earlier admitted in Civil Hospital whereafter he was shifted to Joshi Hospital and was declared fit to make statement only on 10.03.2020. Identity of accompanying unknown assailants is to be ascertained and weapons used in the commission of the offence are to be recovered. Accordingly, proper investigation can be carried out only under custodial interrogation. In '**CBI versus Anil Sharma**' 1994 (4) RCR (Crl.) 268 Hon'ble the Supreme Court observed that effective interrogation 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.

8. 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

September 17, 2020
'PS-Rajesh'

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