

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

CRM-M-34486-2020

Date of decision:-19.11.2020

Lakhwinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr.G.S. Bhatia, Advocate
for the petitioner.

Mr.R.S. Thind, DAG, Punjab.

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 petitioner – Lakhwinder Singh, aged 40 years, resident of village Kahlawan Bhathal Bhai Ke, District Tarn Taran, an accused in FIR No.0098 dated 28.9.2018 for the offences under Sections 323, 324, 326, 452, 447, 551, 148 and 149 IPC, registered with Police Station Chola Sahib, Tarn Taran.

Briefly stated, the prosecution story is that on 20.9.2018 at about 5:30 p.m., Lakhwinder Singh armed with DATAR along with Balwant Singh, Nirvair Singh, Gurdial Singh and Jagjit Singh armed with DANGS and two unknown persons came to the spot and with the help of tractor being driven by Balwant Singh started ploughing land of

complainant Sukhjinder Kaur wife of Surjeet Singh, resident of village Kahlwa, Tarn Taran; when the complainant and her husband tried to dissuade them from doing so, the culprits gave beatings to her husband; Lakhwinder Singh – accused related to the complainant as her brother-in-law attacked her with a DATAR finding target on left arm of complainant; the complainant fell down, then all the assailants attacked her giving fist blows; her clothes were torn; on matter being reported to the police, formal FIR was registered.

Apprehending his arrest in this case, the petitioner had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, however, his such request was declined by learned Additional Sessions Judge, Tarn Taran vide order dated 27.9.2019. As such, the petitioner has approached this Court asking for similar relief.

Notice of the petition has been given to respondent – State. Mr.R.S. Thind, DAG, Punjab has appeared on behalf of respondent – State and accepts notice on its behalf. He opposes the petition.

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

Learned counsel for the petitioner has pointed out that in the FIR, it has been mentioned that the case seems to be of suspicious nature and there is delay of seven days in lodging the FIR. Therefore, the petitioner deserves to be granted pre-arrest bail.

Whereas, learned State counsel has opposed the request stating that though in the FIR, the police did make mention that the case appeared to be suspicious but from the investigation carried out, this fact

could not be corroborated and as has been observed by learned Additional Sessions Judge, Tarn Taran, there is nothing to show that injuries on the person of complainant have been found to be false and fabricated. According to him, the custodial interrogation of the petitioner is necessary to elicit crucial information from him with regard to the incident and to effect the recovery of the weapon used in the incident.

After hearing the rival contentions, I find no merit in the contentions raised by learned counsel for the petitioner. The first contentions put forward by him that in FIR, the police had recorded that the incident appeared to be suspicious has been duly explained by learned State counsel contending that after registration of the FIR during the investigation carried out so far, nothing has come out to effect the credibility of the version given by the complainant in her statement to the police. Therefore, such lines in the FIR do not help the petitioner in any manner. The petitioner is specifically named in the FIR and the grievous injury on the person of the complainant/injured had been attributed to him.

With regard to the delay in lodging the FIR, delay alone is not fatal to a criminal case and if it is properly explained, that does not effect the credibility of the prosecution story. Furthermore, such like pleas are not of much significance while considering the case of the petitioner for entitlement to pre-arrest bail. Although they may have some relevance during the trial.

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.

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 petitioner is definitely required for complete and effective investigation to find out as to how the incident was planned and executed, the role played by each of the assailants so also to effect the recovery of weapon used in the incident. 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.

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

19.11.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No