

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M- 35474 of 2020 (O&M)

Date of decision : 3.11.2020

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Virender @ Monu

.....Petitioner

vs.

State of Haryana

.....Respondent

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

Present: Mr. Pardeep Panwar, Advocate for the petitioners.

Mr. Tanuj Sharma, Assistant Advocate General, Haryana.

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H. S. Madaan, J. (Oral)

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for grant of pre-arrest bail has been filed by petitioner Virender @ Monu, aged about 30 years son of Omparkash, resident of village Badli, Tehsil and District Jhajjar, an accused in FIR No. 233 dated 2.10.2020, for offences under Sections 148, 149, 186, 294, 323, 341, 353, 506 IPC and Section 25 (1-B) Arms Act, registered at Police Station Jhajjar.

Briefly stated, facts of the case, as per the prosecution story are that the criminal machinery was set into motion by complainant

Rambir Singh, President of Roadways Union Jhajjar, who in the written complaint submitted by him, addressed to SHO, Police Station City Jhajjar, stated that on 2.10.2020, a quarrel had taken place at bus stand Jhajjar. The police was informed. The SHO of Police Station had asked him to come to the Police Station alongwith written complaint regarding the incident. As such he accompanied by the police official Jagat Singh alongwith Mukender, Vinod, Vijay, Inderjit, etc., was in the process of going to the Police Station, when they were intercepted by several persons, who had come in 6-7 cars. They attacked them with illegal weapons. The traffic was disrupted to some extent. One of the persons tried to open fire. In the assault, Inderjit and Vinod had received injuries. Police official Jagat Singh was also beaten up. In the complaint, the complainant had held Manish, a private bus operator, besides Neetu Badli, responsible for the incident, seeking taking of action against them. After registration of the FIR, investigation in the case started.

Apprehending his arrest in this case, accused -petitioner Virender @ Monu had approached the Court of Sessions at Jhajjar, seeking pre-arrest bail. However, his such application, which was assigned to Additional Sessions Judge, Jhajjar, was dismissed vide order dated 21.10.2020. As such, he has knocked at the door of this Court, craving for grant of similar relief, which prayer is being opposed by the State counsel.

I have heard learned counsel for the petitioner, learned State counsel, besides going through the record and I find that the present

petition is doomed for failure.

Learned counsel for the petitioner has argued that the petitioner is not named in the FIR and no specific injury is attributed to him. As a matter of fact, the quarrel had taken place between employees of Haryana Roadways and private bus operators. The petitioner is a student and has got nothing to do with the incident. Further more the co-accused of the petitioner, namely, Manish, Parveen, Sandeep, Chanderpal, Rinku and Hemchander, have been granted the concession of bail and his custodial interrogation is not required by the Investigating Agency. Therefore, he be granted anticipatory bail.

Whereas the request is being opposed vehemently, by the State counsel.

After hearing the rival contentions, I find that in the incident, several people had got injured, including an police official on duty and a fire arm was also used. The assailants had come in 6-7 vehicles. Although the details of weapons carried by every assailant and injuries caused therewith are not given in the FIR, but that does not lessen the gravity of the offence.

The purpose of lodging the FIR is to set the criminal machinery into motion and it is not a substantive piece of evidence. Most of the times FIR is lodged in a hurry. The author of the FIR may not be knowing the names of the assailants at that time. Therefore, non-mentioning of the name of the petitioner as one of the assailants does not help him in any way. Furthermore, when the FIR

was lodged, soon after the incident, the complainant could be in a state of shock and nervousness on account of sudden happening of the incident and it requires some time to regain the composure.

After the registration of FIR when the investigation in the case starts, then the whole story begins to get unfolded i.e. the role played by each of the accused, weapons carried by them, injuries caused by the assailants, the motive behind the incident and further how the incident was planned and executed. No reason has been explained as to why the petitioner could be involved in this case wrongly. The name of the petitioner is said to have cropped up in statement of co-accused during investigation of the case. Such statement of co-accused can certainly be taken into consideration, as providing lead in the investigation and in terms of Section 30 of the Indian Evidence Act, 1872, this statement is admissible. The other accused are said to have been granted regular bail. The custodial interrogation of the petitioner in this case is found to be necessary to find out the role played by him and other assailants, as to how the entire incident was planned and executed, the weapon used by him and other assailants in the incident and to effect the recovery of weapon, if any, which might have been in his possession and used in the incident. In case the custodial interrogation of the petitioner is denied to the Investigating Agency, that shall leave many loop holes and lacuna in the investigation, adversely affecting the same, which is uncalled for.

Furthermore, pre-arrest bail is a discretionary relief, which

is to be granted in very rare cases and not in routine. It is meant to save the innocent persons from unnecessary police harassment and inconvenience and not to shield the criminals from interrogation by the Investigating Agency. Furthermore the custodial interrogation is more elicitation oriented since a person under the protective umbrella of pre-arrest bail, would certainly not come up with all the facts within his knowledge with regard to the incident.

Thus keeping in view the gravity of offence and detailed discussion above, the petitioner is not entitled to grant of pre-arrest bail and the petition so filed is dismissed accordingly.

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

3.11.2020

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(H.S. Madaan)

Judge

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