

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

CRM-M-38067-2020

Date of decision:-1.12.2020

Bau @ Karamjit Singh

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Ms.Bandana Kumari Dogra, Advocate
for the petitioner.

Mr.J.P. Ratra, DAG, Punjab.

Mr.Vipin Mahajan, Advocate
for the complainant.

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 – Bau @ Karamjit Singh, aged 19 years, resident of village Mouchpur, Tehsil and District Gurdaspur, an accused in FIR No.138 dated 8.10.2020 for the offences under Sections 324, 323, 148, 149 IPC and later on added Sections 326 and 307 IPC, registered with Police Station Bhaini Mian Khan, District Gurdaspur.

Briefly stated, the prosecution story is that on 2.10.2020 at about 11:30 a.m. when complainant Sewa Singh son of Amrik Singh, resident of village Mouchpur had gone to fetch water from Government tap, he observed Manga Singh, Bau @ Karamjit Singh (present

petitioner), Mangal Singh, Dilbagh Singh, Gopi and Labha, residents of his village sitting there. At that time Manga Singh and Dilbagh Singh were armed with datars, whereas Gopi and Labha were armed with dangs and those persons were throwing brickbats towards the house of Amarjit Singh son of Kanta Singh. On seeing the complainant, Manga raised a lalkara that complainant, a supporter of Amarjit Singh had come there, then Mangal Singh gave a datar blow to complainant, hitting him on his head; Gopi gave a dang blow hitting him on his right bicep; Labha gave a dang blow hitting the complainant on his right shoulder, then Bau @ Karamjit Singh (present petitioner) had thrown the complainant on spot by giving him a push and while the complainant was lying on the ground, Dilbagh Singh gave a datar blow to him hitting him on the calf of his left leg. On an alarm being raised by the complainant and on intervention of Jassa Singh son of Sardul Singh, the assailants ran away from the spot along with their respective weapons. The injured was taken to Civil Hospital, Gurdaspur from where he was referred to hospital at Amritsar and he was admitted to New Life Hospital, Amritsar. The matter was reported to the police. The investigation in the case started.

Apprehending their arrest in this case, the present petitioner along with his co-accused Manga @ Mangal Singh, Gopi @ Gurpreet Singh and Labha had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, however, their such request was declined by learned Additional Sessions Judge, Gurdaspur vide order dated 3.11.2020. As such, the present petitioner has approached this Court asking for similar relief.

Notice of the petition has been given to respondent – State. Mr.JP Ratra, DAG, Punjab has appeared on behalf of respondent – State and Mr.Vipin Mahajan, Advocate has appeared on behalf of the complainant. They oppose the present petition.

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

Here as per the prosecution story, the petitioner is specifically named in the FIR and he had taken active part in the incident in which several injuries were inflicted upon the complainant/injured, one of the injuries has been declared as grievous in nature and another dangerous to life. The grave and serious nature of the allegations against the petitioner and his co-accused do not warrant grant of discretionary equitable relief of pre-arrest bail to the petitioner, which is meant to save the innocent persons from harassment and inconvenience and not to provide protective umbrella to the criminals, accused of the serious offence.

Another factor, which is required to be taken into consideration is that when the petitioner along with his co-accused had approached the Court of Sessions at Gurdaspur seeking pre-arrest bail, interim bail was granted to them with a direction to join the investigation. However, despite issuance of specific directions, the petitioner and his co-petitioners had not joined the investigation, intentionally disobeying the order passed by the Court. Such type of person showing defined behaviour cannot be trusted to comply with the terms and conditions of the bail or if concession of pre-arrest bail is allowed to him.

Further, as informed by the State counsel, the petitioner is

involved in two more criminal cases i.e. FIR No.40 dated 27.6.2018, under Sections 452, 323, 324 and FIR No.51 dated 4.9.2018, under Sections 326, 324, 148 IPC etc., both registered with Police Station Bhaini Mian Khan, District Gurdaspur. In that way, the petitioner is a habitual offender and not entitled to get any discretionary equitable relief.

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 the petition is doomed for failure and is dismissed accordingly.

1.12.2020
Brij/chugh

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No