

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M- 39701 of 2020 (O&M)

Date of decision : 18.12.2020

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Anil

.....Petitioner

vs.

State of Haryana

.....Respondent

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

Present: Mr. Vikas Gulia, Advocate for the petitioner.

Mr. Tanuj Sharma, AAG, 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 Anil, aged about 29 years son of Ram Phal, resident of village Gangana, District Sonapat, an accused in FIR No. 95 dated 11.5.2019, for offences under Sections 148, 149, 307, 324, 341, 506 IPC (Section 302 IPC added later on), registered at Police Station Barauda, District Sonapat.

Briefly stated, facts of the case, as per the prosecution story are that on 11.5.2019, at about 12.30 midnight, while complainant

Anil son of Jagdish, resident of village Gangana, an agriculturist by avocation, was sleeping in his house, at that time Prem son of Jagdish, Rajpal son of Sehajram and Rakesh son of Jagdish, all residents of village Gangana, came to house of the complainant and Prem told the complainant that on 10.5.2019, at about 10.00 P.M., a quarrel had taken place between him and Kuldeep son of Balwan, in which Kuldeep had given beatings to him and as such he wanted to lodge complaint against Kuldeep with the police and complainant should join them for going to Police station. As such complainant alongwith Prem riding one motorcycle, whereas Rakesh and Rajpal on another motorcycle, proceeded towards the Police Station. When they had reached in front of Girls School, Gangana and the time was about 1 after midnight, a Scorpio vehicle, white in colour, came from the opposite side and it stopped in front of the motorcycles. Then 10-12 persons came out of the said Scorpio vehicle. They were armed with swords, gandasas, pistols etc. Those boys included Kuldeep son of Balwan, Ravinder son of Mehar Singh, Anil son of Rampal, Nikku Pandit, Chautala, Pammi son of Yashpal and Deepak son of Satpal, all residents of village Gangana, Kala resident of Adiana and 3-4 other boys. Kuldeep told Prem that he would be taught a lesson for quarreling with him. Then Kuldeep alongwith his accomplices started giving beatings to Prem with their respective weapons. When the complainant tried to intervene, the assailants gave beatings to him also. On observing Rakesh and Rajpal coming towards the spot on their motorcycle, all the assailants ran away from the place of

incident alongwith their weapons in their Scorpio vehicle. Injured were taken to the hospital and were treated. However, during his treatment Prem had expired , as such offence under Section 302 IPC was added. On a written complaint submitted by Anil to the police, formal FIR in the matter was registered. Investigation in the case started.

Apprehending his arrest in this case, accused -petitioner Anil, had approached the Court of Sessions at Sonapat, seeking pre-arrest bail. However, his such application, which was assigned to Additional Sessions Judge, Sonapat, was however, dismissed vide order dated 6.11.2020. 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.

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

Petitioner – Anil is specifically named in the FIR as one of the assailants. As per the prosecution story, he had taken active part in the incident, in which Prem and complainant Anil son of Jagdish, had received injuries. Prem had succumbed to those injuries, whereas complainant Anil was also hospitalized on account of suffering injuries in the incident. The allegations against the petitioner are very grave and serious. His custodial interrogation is necessary for unfolding the complete incident, as to how the incident was planned and executed and the persons actually involved in the incident and planning. Recovery of the weapon used in the incident is also to be

got effected from the petitioner. In case custodial interrogation of the petitioner is denied to the Investigating Agency, that shall leave many loopholes, lacuna and gaps in the investigation, adversely effecting it, which is unwarranted and uncalled for. The petitioner is said to be involved in four more criminal cases, one of those, being under Section 174-A IPC and other under NDPS Act and one under 307, 302 IPC. That means, the petitioner is a habitual criminal.

Under the circumstances, keeping in view the past criminal record and the fact that his custodial interrogation is found to be necessary in this case, it is not a fit case to grant the discretionary equitable relief of pre-arrest bail to the petitioner. Therefore, the petition filed in that regard stands dismissed.

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

18.12.2020
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(H.S. Madaan)
Judge

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