

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

CRM-M-1592-2021

Date of decision:-13.1.2021

Arshdeep Singh

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr.K.S. Brar, Advocate
for the petitioner.

Mr.J.S. Ghuman, DAG, Punjab.

Mr.K.D. Sachdeva, 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 – Arshdeep Singh, aged 18 years, resident of village Pitho, Tehsil Phul, District Bathinda, an accused in FIR No.146 dated 12.12.2020, for the offences under Sections 307, 323, 427, 506, 148 and 149 IPC, registered with Police Station Sadar, REampura

Briefly stated, the prosecution story is that on 9.12.2020, complainant Gurpreet Singh @ Bhedu, a resident of village Pitho, Sidhu Patti, an agriculturist by profession, had gone to the house of Jagjit Singh

son of Piyyara Singh to attend a marriage function there. Davinder Singh @ Billa was also attending that function. Davinder Singh @ Billa under the influence of liquor, had been creating nuisance. Gurpreet Singh @ Bhedu, Surjit Singh and other persons tried to counsel him to see the reason but to no effect. As such Davinder Singh @ Billa was sent home by Surjit Singh. Davinder Singh @ Billa felt offended and held out threats. At about 11:00/11:30 p.m., while complainant along with his wife Hardeep Kaur was present at the house of Surjit Singh, then Davinder Singh @ Billa armed with a sword, Jagdeep Singh armed with a Dah and present petitioner Arshdeep Singh armed with an iron rod, accompanied by 9-10 unknown persons having hockey sticks and baseball bats came there. Davinder Singh @ Billa assaulted the complainant aiming a sword blow on head of the complainant with the intention to kill him. The complainant raised his hands to ward off the blow and was hit on the ring finger of right hand. Jagdeep Singh gave an iron rod blow to the complainant, hitting him on the head. The complainant fell down on the ground, then petitioner Arshdeep Singh hit the complainant on left leg with his iron rod. All the accused gave beatings to the complainant. Surjit Singh and wife of complainant Hardeep Kaur saved the complainant from further injuries at the hands of the assailants through their intervention. While leaving the spot, the assailants damaged the THAR vehicle of the complainant and hurled abuses at him. The complainant was taken to hospital. He was medically treated and medico-legally examined. Out of 4 injuries observed on his person, injuries No.1, 3 and 4 were found to have been caused with a blunt weapon, whereas injury No.2 was opined to have

been inflicted with a sharp edged weapon. Such injury No.2 was declared to be grievous in nature and the remaining injuries were simple. On information being given to the police, formal FIR in the matter was registered and investigation in this case started.

Apprehending his arrest in this case, the present petitioner had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, which was assigned to learned Additional Sessions Judge, Bathinda. However, his such request was declined by learned Additional Sessions Judge, Bathinda vide order dated 5.1.2021. As such, the present petitioner has approached this Court by way of filing the instant petition, asking for the similar relief.

Notice of the petition was issued to respondent – State. Mr.J.S.Ghuman, DAG, Punjab has appeared on behalf of respondent – State and accepts notice on its behalf. Sh.K.D. Sachdeva, Advocate has also appeared on behalf of the complainant. They oppose the petition.

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

The allegations against the petitioner are very serious and grave of being one of the several assailants armed with deadly weapons constituting an unlawful assembly, going to the spot after pre-planning and attacking the complainant Gurpreet Singh @ Bhedu, causing him multiple injuries. The petitioner is alleged to have taken active part in the incident and one of the injury found on the person of complainant has been attributed to him. Such conduct of the petitioner cannot be taken lightly. The gravity and seriousness of allegations alone do not warrant

grant of discretionary equitable relief of pre-arrest bail to the petitioner since 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 arrest and custodial interrogation.

I do not find any merit in the argument advanced by learned counsel of the petitioner that since only a simple injury has been attributed to the petitioner, this petition be allowed. The petitioner being one of the assailants, who formed an unlawful assembly and were armed with deadly weapons, whatever act was committed, in prosecution of common object of such unlawful assembly, every member of such assembly is responsible for the same. The petitioner cannot come up with a straight face saying that he has caused only a simple injury and cannot be held accountable for the other injuries including a grievous injury inflicted to the complainant by his co-accused.

Furthermore, the petitioner having indulged in grave criminal acts, he cannot be allowed to put forward the plea that he is of young age and a student. He should have thought of all these things before taking part in the incident and assaulting the complainant. Any misplaced sympathy shown to such type of persons, would rather defeat the ends of justice, encouraging such type of element to take part in criminal activities feeling confident that they would be able to avoid rigors of law pleading leniency putting forward plea of young age and being a student.

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 to effect recovery of weapon used in the incident and to find out as to how the incident was planned and executed. 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.

13.1.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No