

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

203/2

CRM-M-1634-2021.

Date of Decision: 16.03.2021.

Kirtan Singh

....Petitioner.

Versus

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Inderjit Sharma, Advocate for petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

Mr. Sarabjit Singh Grewal, Advocate for complainant.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video Conferencing.

This petition under Section 438 Cr.P.C. has been moved by petitioner for grant of pre-arrest bail in case FIR No.253 dated 05.12.2020 under Sections 304, 307, 323, 324, 449 and 450 IPC read with Section 34 IPC (Section 326 IPC added lateron) registered at Police Station Maur, District Bathinda.

Affidavit dated 07.02.2021 of Kulbhushan Sharma, PPS, Deputy Superintendent of Police, Sub-Division Maur, District Bathinda alongwith Annexures R/1 to R/3, already filed on behalf of respondent-State, is taken on record.

Learned counsel for the petitioner *inter alia* contends that allegations levelled in the FIR are totally concocted, false and frivolous and there is no iota of truth therein. He further submits that as a matter of fact on

implicated in this case. He further submits that allegedly petitioner while armed with *Gandasi* (sharp-edged weapon) had inflicted injury on the person of complainant-D.C. Singh, which injury was found to be simple in nature. He further submits that no injury on the person of Jagroop Singh (since deceased) has been attributed to petitioner and as a matter of fact said Jagroop Singh had died due to cardiac failure. He further submits that Balvir Kaur, mother of complainant, had fallen on hard surface on her own as it was raining and as such no injury was sustained by her at the instance of petitioner. He further urges that nothing incriminating is to be recovered at the instance of petitioner and as such his custodial interrogation is not required. He further submits that though petitioner has no nexus whatsoever with the alleged offence, he is ready to join investigation as and when called upon to do so by the Investigating Agency, thus, concession of pre-arrest bail may be extended to him.

On the other hand, learned State counsel assisted by learned counsel for the complainant while opposing the cause of petitioner has vehemently argued that petitioner while armed with *Gandasi* inflicted blow of *Gandasi* on the head of complainant-D.C. Singh. He further urges that a bare perusal of Medico-Legal Report of injured-D.C. Singh reveals that incised wound 4 x 2 x 1 cm was detected on the forehead 1.5 cm superior to left eyebrow and the said injury was caused by sharp-edged weapon and further on X-ray examination and surgery opinion, above said injury was declared grievous in nature. He further urges that grievous injury by means of sharp-edged weapon and that too on the vital organ of the body (head) inflicted on the person of injured-D.C. Singh, is attributed to the petitioner. He further urges that simple injury on the person of injured-

Balvir Kaur is also attributed to the petitioner. He further submits that co-accused Yadwinder Singh while armed with *Faura* (instrument used for picking cow dung) attacked Jagroop Singh (since deceased) and as a result of which internal injury was sustained by said Jagroop Singh, who succumbed to that injury on the way to the hospital. He further submits that Postmortem examination on the body of deceased Jagroop Singh was conducted, wherein cause of death was opined as 'Cardiac Tamponade' due to free wall rupture of anterior wall of left ventricle which was ante-mortem in nature and sufficient to cause death in ordinary course of nature. He further submits that chest injury can also cause 'Cardiac Tamponade'. He further submits that weapon of offence is yet to be recovered. He further urges that in view of nature of offence committed by the petitioner, his custodial interrogation is required to unearth the truth and as such he is not entitled for the concession of pre-arrest bail.

I have heard learned counsel for the parties and have carefully gone through the contents of petition as well as reply furnished at the instance of respondent-State.

Without commenting anything on the merits of the case, lest it may prejudice the case of either of the parties, allegedly petitioner alongwith co-accused while armed with *Gandasi* and *Faura* and in furtherance of their common intention committed trespass into the house of complainant and further caused grievous as well as simple injuries on the persons of complainant-D.C. Singh and Balvir Kaur and further inflicted fatal injury on the person of Jagroop Singh. Pre-arrest bail to an accused should be granted in exceptional circumstances as a person couched in

facts within his knowledge. In a given situation, custodial interrogation of petitioner is certainly required for complete and effective investigation. In case, same is denied to the Investigating Agency that shall leave many glaring loopholes and gaps, adversely affecting investigation, which is uncalled for. Keeping in view totality of entire scenario and nature of offence, no extra-ordinary ground has been made out in favour of petitioner for his entitlement of pre-arrest bail.

As a sequel to above, instant petition for grant of pre-arrest bail moved by the petitioner is dismissed.

(LALIT BATRA)
JUDGE

16.03.2021

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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No