

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

CRM-M-1877-2021

Date of decision:-14.1.2021

Karan Kumar @ Karan @ Karan Lahoria

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr.A.S. Bhatti, Advocate
for the petitioner.

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

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 – Karan Kumar @ Karan @ Karan Lahoria, aged 20 years, resident of Mushkved, PS Kotwali, District Kapurthala, an accused in FIR No.0325 dated 3.11.2020, under Sections 323, 308, 148 and 149 IPC, registered with Police Station City, Kapurthala.

Briefly stated, the prosecution story is that on 27.10.2020 complainant Mandeep Sharma son of Jagdish Lal Sharma, resident of Naya Pind, Gate Wala, PS Kotwali, Kapurthala, aged about 28 years, a labourer by avocation was going to the house of his uncle Sonu, situated

at Mohalla Santpura and at about 9:30 p.m. when he had reached near Onkar Public School, Mohalla Santpura, then Navjot Singh @ Mani Baba son of Malkiat Singh, resident of Mushkved, Karan Lahoria (present petitioner), resident of Mushkved, Jassa, resident of Noorpur Dona, P.S. Sadar, Kapurthala, Narinder Singh, resident of Mohalla Santpura, Sau Gill son of Mani uncle along with 3-4 unidentified persons armed with datars, kirpans, baseball bats and bricks came there; Navjot Singh @ Mani Baba was riding motorcycle bearing No.PB-08-DZ-4904, whereas Karan Lahoria (present petitioner) and Jassa were pillion riding that motorcycle; their other accomplices were on another motorcycle and scooter; Navjot Singh @ Mani Baba raised a lalkara that Mandeep Sharma should be caught and killed on that date, saying that Navjot Singh @ Mani Baba gave a datar blow to the complainant hitting him on left side of the head. It was so done by him with an intention to kill the complainant. Navjot Singh @ Mani Baba gave second blow with a datar to the complainant, hitting him on left side of head. Petitioner Karan Lahoria gave baseball bat blow to the complainant, hitting him on right eye, whereas second such blow given by him hit the complainant on index finger of left hand; Jassa gave brick bat blow to the complainant hitting him on left eye, whereas second such blow given by Jassa hit the complainant on right hand; Narinder Singh gave a brickbat blow to the complainant, hitting him on left side of forehead and second such blow given by Narinder Singh hit the complainant on left cheek. Then Sau Gill gave kirpan blow to the complainant finding a target on right side of forehead of complainant. Navjot Singh @ Mani Baba gave a datar blow to the

complainant, hitting him on backside of head. Another such blow given by him also found its target on the backside of head of the complainant. Blood started oozing from all the injuries suffered by complainant. He fell down on the earth. While he was lying down, the assailants caused further injuries to him. The complainant/injured raised alarm, which attracted several people, then the assailants ran away from the spot along with their respective weapons on their vehicles. Sonu, uncle of the complainant/injured reached at the spot and he took the complainant/injured to Civil Hospital, Kapurthala, where he was medically treated and medico-legally examined. Initially, the talks for compromise were going on but those did not prove to be fruitful. Thereafter, the matter was reported to the police and on the basis of statement of complainant Mandeep Sharma recorded by the police, formal FIR in the matter was recorded and investigation in the 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, Kapurthala (Duty). However, his such request was declined by learned Additional Sessions Judge, Kapurthala (Duty) 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. He opposes the petition.

I have heard learned counsel for the parties besides going

through the records.

The petitioner is named in the FIR and he is alleged to be one of the assailant, who had participated in the merciless assault to the complainant/injured Mandeep Sharma, while armed with a baseball bat. He being member of an unlawful assembly while possessing dangerous arms not only indulged in rioting but is liable for criminal acts of his co-accused since the complainant/injured is shown to have been assaulted and caused injuries in prosecution of common object of the unlawful assembly. The petitioner cannot possibly come up with a straight face and say that he is responsible for the injuries caused by him alone and not for the injuries inflicted by his co-accused. The incident cannot be dissected in parts qua role of each assailant and thereafter liability fixed for acts of every assailant. The allegations against the petitioner/accused are very serious and grave, which do not warrant grant of discretionary equitable relief of pre-arrest bail to him 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.

As regards the contention of learned counsel for the petitioner that there is delay in lodging of the FIR and recording statement of complainant/injured etc., an adequate explanation has been rendered by the complainant in the FIR itself stating that the matter was not reported to the police at the earliest since talks for compromise between the parties were going on and when those had ultimately failed, then the police was informed. Even otherwise, while deciding a petition for pre-arrest bail,

merits of the case are not to be gone into deeply since it is duty, function and prerogative of the trial Court to do so while determining the guilt of the accused by trial.

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 not only to effect the recovery of the weapons used by the petitioner in the incident but for unfolding the whole story as to how the incident was planned and executed, from where the weapons had been procured etc. 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.

14.1.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No