

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

CRM-M-2463-2021 (O&M)

Date of decision: 19.01.2021

Suba Singh

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr. I.S. Dhaliwal, Advocate for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

Mr. M.S. Khaira, Advocate for the complainant.

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

This petition for pre-arrest bail has been filed by petitioner Suba Singh, an accused in FIR No.141 dated 17.06.2020, for offences under Sections 452, 323, 148, 149 IPC (Sections 307, 325, 324 and 34 IPC added later on), registered with Police Station Lambi, District Sri Muktsar Sahib.

Notice of motion.

Mr. Saurav Khurana, DAG, Punjab, accepts notice on behalf of the respondent-State and Mr. M.S. Khaira, Advocate has appeared on behalf of the complainant.

In nutshell, the per prosecution story is that criminal

machinery in this case was set into motion by complainant Satnam Singh son of Bagicha Singh, resident of Vanwala, aged about 46 years, an agriculturist by occupation, who in the statement made to the police stated that in front of their residential house, agriculture land of petitioner/accused Suba Singh son of Avtar Singh of that very village, is situated; Suba Singh etc., wanted to pass plastic pipes through the street in front of house of the complainant for the purpose of taking water to their fields from their tubewell; complainant side objected to that and asked Suba Singh to take the pipe to his fields through his own land, however, Suba Singh was adamant; on 16.06.2020, at about 10.45 AM, Kulvir Singh son of Ajit Singh armed with a spade (kahi), Nirlaip Singh son of Ajit Singh armed with a gandasa (axe), Amolak Singh son of Suba Singh armed with a gandasa, Ajit Singh son of Avtar Singh, armed with a dang, came in front of house of the complainant; Suba Singh and Ajit Singh raised lalkara that Satnam Singh and Bagicha Singh should be given a taste for stopping them from passing their pipes through the street; hearing that, all the accused trespassed in the house of complainant; Kulvir Singh gave a kahi blow from reverse side to Bagicha Singh father of the complainant, hitting him on head; Amolak Singh gave a gandasa blow from reverse side to Bagicha Singh, hitting him on right shoulder; when complainant Satnam Singh went forward to rescue of his father, then Amolak Singh gave two gandasa blows from reverse side to him, hitting the complainant on left hand and little finger of right hand; Nirlaip Singh

gave a gandas blow from reverse side to the complainant, hitting on his back; Suba Singh and Ajit Singh also caused injuries to the complainant and his father with their dangs; on alarm being raised by the injured and their family members, the assailants ran away from the spot along with their respective weapons; the injured were taken to Civil Hospital, Lambi initially from where, keeping in view the serious condition of Bagicha Singh, he was referred to Medical College, Faridkot.

Apprehending his arrest in this case, petitioner/accused had filed a petition for grant of pre-arrest bail before Id. Sessions Judge, Sri Muktsar Sahib, who vide order dated 18.12.2020, dismissed the same. Feeling aggrieved, the petitioner has approached this Court, craving for grant of similar relief, which request is being opposed by the State counsel.

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

Pre-arrest bail is a discretionary equitable relief, which is to be granted by the Court in rare and exceptional circumstances to save the innocent persons from harassment and inconvenience and not to provide protective umbrella to the criminals enabling them to avoid arrest and interrogation by the investigating agency. The allegations against the petitioner are very grave and serious, inasmuch as he sharing common intention with his co-accused had trespassed in house of the complainant and caused injuries on the person of complainant

and his father. One of the injuries on the person of Bagicha Singh, who is stated to be an aged person of about 69 years, has been found to be dangerous to life. The petitioner comes out to be an active participant in the whole incident. He is not only liable for his own acts but those of his co-accused also, since the injuries have been caused by co-assailants of the petitioner in pursuance of common intention of all the accused. It comes out to be a pre-planned and premeditated act. The petitioner himself was stated to be armed with a dang and dang blows to the injured are attributed to him. The motive for the incident also rests with the petitioner/accused, who according to the prosecution story was being refrained by the complainant party from passing the plastic pipes through the street. The petitioner cannot come up with a straight face and say that since only simple injuries have been attributed to him, he should be granted pre-arrest bail. The incident cannot be dissected and split up in parts so as to see the individual role of each assailant. The incident is to be viewed as such and the assailants who indulged in a pre-planned and premeditated attack, showing sharing of common intention are liable not only for their individual acts but for acts for their co-accused/co-assailants also. Therefore, the seriousness and gravity of allegations against the petitioner do not warrant grant of discretionary equitable relief of anticipatory bail to him. Custodial interrogation of the petitioner is definitely required for complete and effective investigation, so as to find out as to how the incident was planned and executed. The

custodial interrogation of the petitioner is necessary to effect the recovery of the dang used by him in the incident. In case, it is denied to the investigating agency that shall leave many gaps, loopholes and lacuna, adversely affecting the investigation, which is uncalled for.

Thus, no case for grant of pre-arrest bail is made out. The petition is found to be without any merit and is dismissed accordingly.

19.01.2021
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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No