

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

CRM-M-5632-2021 (O&M)

Date of decision: 08.02.2021

Banti Thaker @ Mangal Singh

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr. S.S. Duhan, Advocate for the petitioner.

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

This petition for pre-arrest bail has been filed by petitioner Banti Thaker @ Mangal Singh, an accused in FIR No.16 dated 12.01.2021, for offences under Sections 186, 332, 34, 353 and 506 IPC, registered with Police Station Azad Nagar, District Hisar.

Notice of motion.

Mr. Tanuj Sharma, AAG, Haryana, accepts notice on behalf of the respondent-State.

Briefly stated the facts of the case as per prosecution story are that, on 15.12.2020, while bus No.HR39-C-9629 was plying on route Chhapar to Hisar route, complainant Raj Kumar was on duty in that bus as a conductor and Krishan Kumar as a driver; when the bus halted at Village Rawat Khera, 03 boys boarded the bus; Raj Kumar conductor

asked them to buy ticket, which the boys refused, resulting in scuffle between said boys as well as bus conductor and driver; when the bus stopped at Azad Nagar bus stand, the boys alighted from the bus, holding out a threat that in case the bus came on that route again, then the said conductor and driver would be killed; on account of the assault by such boys, which included the present petitioner Banti Thaker @ Mangal Singh and one Vikram Singh; the bus missed route of Hisar-Bhiwani to the extent of 148 kms and the conductor and driver were obstructed from discharging their official duties; on intimation being given to the police, formal FIR in the matter was recorded.

Apprehending his arrest in this case, petitioner/accused had approached the Courts of Sessions at Hisar by moving an application for grant of pre-arrest bail. His such application was assigned to Addl. Sessions Judge, Hisar, who vide order dated 21.01.2021, 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 and I find that no ground for acceptance of the present petition is made out.

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. The

assault on the public servants while they are on duty needs to be viewed with all the seriousness, since, if the culprits are shown any leniency, that would result in demoralization amongst such officials, who may not be able to discharge their duties in a proper and appropriate manner without any fear and favour. The conduct of the petitioner in picking up quarrel with the bus conductor over purchase of ticket cannot be approved of.

Learned counsel for the petitioner has argued that there is a gross delay in lodging the FIR inasmuch as the incident is said to have taken place on 15.12.2020 at about 9.00 AM whereas the FIR was got recorded on 12.01.2021, which puts a question mark over the truthfulness of the prosecution story. However, I am not impressed by this contention. As has been noticed by Ld. Addl. Sessions Judge, Hisar in para No.6 of the impugned order that as per record after happening of the incident, General Manager, Haryana Roadways, Hisar had written a letter to the Superintendent of Police, Hisar for taking necessary action against the accused. There was some delay in dispatch of that letter, however, the complainant had already submitted a complaint to the General Manager, Haryana Roadways, Hisar against the accused. The delay was on account of procedural hassles and not for any other reason. Furthermore, there is nothing on record to show that the complainant had any previous enmity with the present petitioner so as to involve him in a false criminal case. Even otherwise, while considering the case of an accused for grant of pre-arrest bail, such like factors do not merit much attention. The aspects like delay in lodging the report with the police have some relevance during

the trial but not at this stage, while deciding the present petition.

Another argument put-forward by learned counsel for the petitioner was that no injury was caused to the complainant-conductor or bus driver and there is no MLR of either of them available on the record, which makes the prosecution story doubtful. This argument also fails to convince me. The offences for which the petitioner has been booked include assault/use of criminal force on a public servant, obstructing him from discharge of his official duty. Merely because the complainant and bus driver did not suffer any visible injuries does not justify their assault at the hands of the petitioner.

Learned counsel for the petitioner has further argued that the petitioner is ready and willing to join the investigation; no recovery is to be effected from him, therefore, he be granted pre-arrest bail. Again, I find this argument to be devoid of force. Merely because no recovery is to be effected from the petitioner does not *ipso-facto* make out a case for grant of pre-arrest bail to the petitioner. As already observed, pre-arrest bail is to be granted in a very exceptional circumstances and not in routine and while determining entitlement of an accused for grant of pre-arrest bail, various factors are to be taken into consideration, which include gravity and seriousness of allegations against the accused. Custodial interrogation of the petitioner is definitely required for complete and effective investigation and 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, in view

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

08.02.2021

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(H.S. MADAAN)
JUDGE

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