

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

CRM-M-16661-2021 (O&M)

Date of decision: 27.05.2021

Gurdeep Singh Mann

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr. Pardhuman Garg, Advocate for the petitioner.

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

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition for pre-arrest bail has been filed by petitioner Gurdeep Singh Mann, an accused in FIR No.9 dated 21.01.2021, for offences under Sections 324, 323, 341, 148, 149 IPC (Section 326 IPC added later on), registered with Police Station Machhiwara, Ludhiana.

Briefly stated the prosecution story is that, on 17.01.2021, complainant Harnek Singh was going on a motorcycle towards Village Mahdipur after purchasing milk from Machhiwara Sahib; at about 9.30 PM, while he was in the area near Charankawal chowk, he observed petitioner-accused Gurdeep Singh Mann along with Mohit Chanana besides Arman, Vishal and 04 unidentified persons armed with gandas, dah and sticks standing there; on seeing them, the complainant turned his

motorcycle towards market but those miscreants attacked the complainant after chasing him; petitioner/accused Gurdeep Singh Mann gave a gandas blow to the complainant, hitting him on his left leg; Mohit Chanana gave a dah blow towards head of the complainant, however, complainant received that blow on fingers of left hand; when complainant fell down, the other unidentified accomplices of the petitioner and Mohit Chanana caused him injuries with sticks and fists; the complainant raised alarm, which attracted Gurjit Singh to the spot; when Gurjit Singh tried to save the complainant, the assailants gave him beatings also; thereafter, the assailants ran away from the spot along with their respective weapons; on incident being reported to the police, formal FIR in the matter was recorded; the investigation in the case started.

Apprehending his arrest in this case, the petitioner had approached the Courts of Sessions at Ludhiana, by moving an application for grant of pre-arrest bail. His such application, which was assigned to Addl. Sessions Judge, Ludhiana, was, however, dismissed, vide order dated 15.03.2021. 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.

The petitioner is specifically named in the FIR and he had played an active role in the incident in causing injuries to the complainant. At the relevant time, he is said to have been armed with a

gandasa, which is a dangerous weapon. From the prosecution story, it transpires that accused was member of the unlawful assembly and he was having gandasa, a dangerous weapon. He along with his co-accused committed rioting and complainant was caused multiple injuries, which was in pursuance of common object of the unlawful assembly, therefore, in terms of Section 149 IPC, every member of the unlawful assembly is guilty of the offence committed in prosecution of common object. Injury No.1 on the person of complainant has been declared to be grievous in nature. Custodial interrogation of the petitioner is necessary for effecting recovery of the weapon and to find out as to how the incident was planned and executed, who were the other persons accompanying them, the role played by each one of them, from where the weapons were procured and where those were concealed/disposed of after the incident, the motive for attack on the complainant etc. In case, custodial interrogation is denied to the investigating agency that shall leave many loopholes, lacuna and gaps in the investigation, adversely affecting the case of prosecution, which is uncalled for.

Though, learned counsel for the petitioner has contended that there is a delay of 04 days in lodging of the FIR and FIR was registered as an afterthought and planning to falsely implicate the petitioner and injuries on the person of complainant are manipulated in connivance with a private hospital but I find such contentions to be least convincing. 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.

While deciding the question whether an accused is entitled to grant of pre-arrest bail, the merits of the case are not to be probed in depth. It is prerogative of the trial Court to look into merits of the case. Though, the prompt recording of the FIR is desirable but delay alone is not fatal to a criminal case, if the reason for the delay is explained. The prosecution may be able to render a plausible explanation for delay in lodging the FIR during the trial and at this stage, delay in recording of the FIR cannot be magnified, so as to question the credibility of the prosecution version.

Similarly, the allegations with regard to injuries on person of the complainant being manipulated does not come out to be convincing. Nevertheless, all these pleas are on merits, which the petitioner/accused may take and lead evidence to prove during the trial but keeping in view the totality of circumstances, no ground for anticipatory bail to the petitioner is made out. The petition is found to be without merit and is dismissed accordingly.

Anything said herein above shall not be construed as an expression of opinion on the merits of the case.

27.05.2021

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(H.S. MADAAN)
JUDGE

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