

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M- 19989 of 2021 (O&M)

Date of decision : 27.5.2021

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Neeraj Kumar

.....Petitioner

vs.

State of Haryana

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Madan Sandhu, Advocate for
Mr. Ajay Shekhawat, Advocate the petitioner

Mr. Karan Garg, Assistant Advocate Advocate General,
Haryana

Mr. Vipul Joshi, Advocate for the complainant.

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H. S. Madaan, J. (Oral)

Case taken up through video conferencing.

This petition for pre-arrest bail under Section 438 Cr.P.C., has been filed by petitioner – Neeraj Kumar, aged about 27 years, s/o Kanwar Lal, resident of village Model Town Karhera, PO Mandhar, Tehsil Radaur, District Yamuna Nagar, being accused in case FIR No. 51 dated 29.3.2021 for offences under Sections 148, 149, 323, 324, 506 IPC (offence under Section 326 IPC added later on) registered at Police Station Jathlana, District Yamuna Nagar.

Briefly stated, facts of the case, as per prosecution story, are that on 29.3.2021 at about 12.40 p.m., when complainant Suchinder

Singh s/o Amar Singh, resident of village Barheri, P.S. Jathlana, District Yamuna Nagar, alongwith his nephew Manish Kumar was standing in the street, then 7-8 boys riding 5 motorcycles, came there which included Pawan Rana s/o Man Singh, his son Anurag, Janamjaid, Naveen, Biju, Aakash, Neeraj – present petitioner - accused son of Kanwar Pal, all residents of village Model Town Karera. They were armed with swords, dandas, bindas and cutters. Naveen gave cutter blow to Manish Kumar, hitting him on the left hand, whereas his other accomplices gave severe beatings to Manish Kumar with dandas and bindas. While leaving they extended threat to eliminate the complainant and victim Manish Kumar. The matter was reported to the police, on the basis of which, formal FIR was recorded.

Apprehending his arrest in this case, petitioner -accused Neeraj Kumar had approached the Court of Sessions at Yamuna Nagar by way of filing an application for pre-arrest bail. However, such application filed by him, which was assigned to Sessions Judge, Yamuna Nagar, was dismissed vide order dated 10.5.2021. Feeling aggrieved, the petitioner-accused has knocked at the door of this Court, craving for grant of similar relief, which request is being opposed by learned State counsel, as well as counsel appearing for the complainant.

I have heard, learned counsel for the petitioner, learned State counsel, as well as counsel for the complainant, besides going through the record and I find that the present petition is doomed for

failure.

Pre-arrest bail is a discretionary equitable relief, which is not to be granted in routine, but in exceptional circumstances. This relief is to be granted to the persons who may be involved in false criminal cases on account of political or such like reasons, to save them from harassment and any inconvenience and it is not to act as a shield for the criminals to provide protective cover to them from arrest and interrogation by the police.

In the instant case, the allegations against the petitioner are very grave and serious of having actively taken part in the incident, in which victim Manish Kumar was inflicted with multiple injuries, injury No.1 on his person having been declared as grievous by the doctor. Although such injury is not attributed to the petitioner, but in view of provisions of Sections 148 and 149 of the IPC, he being member of the unlawful assembly, which while armed with deadly weapons had been indulging in rioting, is equally liable for the injuries caused to the victim, since it was so done in furtherance of the common object of the unlawful assembly.

The custodial interrogation of the petitioner- accused, which is more elicitation oriented is required to effect recovery of the weapons used in the incident and to find out as to how the incident was planned and executed; the role played by each culprit therein; from where the weapons were procured and where they were concealed/disposed of after the incident; the motive of the incident etc. In case the custodial interrogation of the petitioner is denied to

the investigating agency, that would leave many lacuna, loopholes and gaps, adversely affecting the investigation, which is not called for.

As such the petition lacks merit and is dismissed accordingly.

However, nothing discussed above shall have any bearing on the merits of the case.

27.5.2021
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(H.S. Madaan)
Judge

Whether speaking / reasoned	Yes / No
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Whether reportable	Yes / No
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