

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M- 20291 of 2021 (O&M)

Date of decision : 27.5.2021

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Vishal Kumar and another

.....Petitioners

vs.

State of Punjab

.....Respondent

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

Present: Mr. C.S. Singhal, Advocate for the petitioners

Mr. J.S. Ghuman, Deputy Advocate Advocate General,
Punjab

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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 petitioners – Vishal Kumar, aged about 15 years and Jatin Kumar @ Honey aged about 17 years, both minor sons of Paramjit Kumar, r/o No. 234, Street No.2, Golden Avenue Colony, Basti Jodhewal, Ludhiana, being accused in case FIR No. 8 dated 14.1.2021 for offences under Sections 307, 323, 341, 506, 148, 149 IPC, registered at Police Station Meharban, Ludhiana.

Briefly stated, facts of the case, as per prosecution story, are that on 13.1.2021, at about 7.00 P.M., on being informed that some persons were beating up son of the complainant, namely, Surjit

Kumar in front of shop of Imram barber, the complainant – Ram Surat alongwith his other son Sunil Kumar rushed there and found that Honey having an iron rod in his hand, Kaku Mota having a kirch, Jatin also carrying a kirch, Ghuggi having a baseball bat, Vishal armed with an iron rod, Lucky having a danda, Bagga possessing a baseball bat alongwith their 5-6 accomplices were beating up Surjit Kumar. When Surjit Kumar tried to escape, then Kaku Mota gave a kirch blow to him in the abdomen with an intention to kill him and the intestines came out as a result of said injury. Vishal gave a rod blow on the neck of Surjit Kumar. Ghuggi gave a baseball bat blow on his head, resultantly, Surjit Kumar fell on the ground. The complainant etc. raised an alarm. Then the assailants ran away from the spot alongwith their respective weapons, threatening to kill the complainant side. Surjit Kumar – injured was taken to CMC Hospital, Ludhiana, for treatment where he was medico legally examined. On the matter being reported to the police, formal FIR was recorded.

Apprehending their arrest in this case, petitioners -accused Vishal Kumar and Jatin Kumar @ Honey had approached the Court of Sessions at Ludhiana, seeking pre-arrest bail, but were unsuccessful there, as such they have knocked at the door of this Court, craving for grant of similar relief, which request is being opposed by learned State counsel.

I have heard, learned counsel for the petitioner, learned State counsel, besides going through the record.

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.

Here the allegations against the petitioners are very grave and serious of having taken an active part in the incident, in causing multiple injuries to Surjit Kumar in an attempt to murder him. At that time Vishal Kumar and Jatin Kumar @ Honey are said to have been armed with iron rods. In that way, in view of provisions of Sections 148 and 149 of the IPC, they being members of the unlawful assembly, which while armed with deadly weapons had been indulging in rioting, are equally liable for the injuries caused to the victim, since it was so done in furtherance of the common object of the unlawful assembly.

Though both the petitioners are stated to be below 18 years and they claim to be juvenile, but the acts attributed to them amount to heinous crime. Learned Additional Sessions Judge, Ludhiana, had discussed the issue in detail while dismissing the application for grant of anticipatory bail. The gravity and seriousness of the allegations do not warrant grant of relief of anticipatory bail to the petitioners.

The custodial interrogation of the petitioners- 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 petitioners 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 is without any 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

Whether reportable Yes / No