

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

CRM-M-22362-2021 (O&M)

Date of decision: 14.07.2021

Baljinder Singh @ Binda

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr. Lupil Gupta, Advocate for the petitioner.

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

Mr. Amaninder Sekhon, Advocate for the complainant.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition for pre-arrest bail has been filed by petitioner Baljinder Singh @ Binda, an accused in FIR No.139 dated 11.05.2021, for offences under Sections 452, 427, 323, 148 and 149 IPC, registered with Police Station City, Faridkot.

Briefly stated the facts of the case as per prosecution story are that, on 09.05.2021, complainant Kewal Singh son of Niranjana Singh, resident of Fauji Wali Gali, Bazigar Basti, Faridkot, aged about 35 years, a labourer by avocation along with his family members was present in his house; his elder brother Resham Singh and Parminder Singh were also there; at about 1.30 PM, Happy Singh and Mandeep Singh sons of Babbu

Singh having swords, Babbu Singh son of Hazura Singh armed with a sota, petitioner/accused Baljinder Singh @ Binda armed with a sword, Jettu Singh armed with a sword, Happy son of Deepa Singh armed with a rod, Sammi son of Chhinder Singh armed with baseball bat, Harpreet Singh son of Pal Singh armed with a sota, Pattu son of Jeeta Singh having a hand-pump handle, Rahul son of Billa Singh having a baseball bat, Gaggi son of Budhu Singh armed with a sota, all residents of Bazigar Basti, Faridkot accompanied by 5-6 unknown persons carrying dandas and sotas came in front of house of the complainant and started raising lalkaras for teaching complainant side a lesson for stopping them from standing in the street; then all those persons opened the main gate of house of the complainant and trespassed therein, started destroying articles lying in the house; when complainant Kewal Singh and his brother Resham Singh stopped them from doing so, then, they attacked them with their respective weapons; Happy son of Babbu Singh gave a sword blow to Resham Singh, hitting him on head; petitioner/accused gave a sword blow finding its target on the right hand of Resham Singh; after receiving the injuries, Resham Singh fell down; when complainant Kewal Singh came forward to rescue his brother Resham Singh, then all those persons started giving beatings to complainant Kewal Singh and Resham Singh, while Resham Singh was lying down; when the victims raised alarm, then Balkar Singh son of Harbans Singh, R/o Mohan Avenue, Faridkot arrived at the spot, who also raised alarm; when several other persons from neighbourhood started gathering at the spot, then the

assailants ran away therefrom along with their respective weapons; since blood was oozing out from the head injury of Resham Singh, he was removed to Guru Gobind Singh Medical College and Hospital, Faridkot for treatment; the motive for the incident was that Happy Singh, Mandeep Singh sons of Babbu Singh are drug addicts and after consuming drugs, they along with other boys used to stand in the street without any reason to which the complainant side objected and on account of that grudge, such persons accompanied by their accomplices had trespassed in the house of complainant and caused injuries to the complainant and his brother Resham Singh, besides damaging household articles and window panes of the house; on matter being reported to the police, formal FIR was recorded.

Apprehending his arrest in this case, the petitioner had approached the Court of Sessions at Faridkot for grant of pre-arrest bail by moving an application in that regard. Such application filed by him and 03 others was dismissed qua present petitioner Baljinder Singh @ Binda as well as co-accused Happy Singh @ Gagandeep Singh, whereas, it was accepted qua accused Mandeep Singh and Gaggi @ Gurmeet Singh. Feeling aggrieved, petitioner Baljinder Singh @ Binda has approached this Court, craving for grant of similar relief, which request is being opposed by the State counsel and counsel for the complainant.

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.

Here the allegations against the petitioner are very grave and serious that he along with his co-accused while armed with dangerous weapons had formed an unlawful assembly, committed rioting and had trespassed in the house of complainant, damaging household articles and glass pans of the windows, besides causing injuries to him and his elder brother Resham Singh. The petitioner as per prosecution story was armed with a sword, which is dangerous sharp edged weapon and using that in the incident, he had caused injury on the right hand of Resham Singh. Another assailant, namely Happy, who was armed with a sword and had caused injury therewith on head of Resham Singh, is said to have been since arrested in this case.

Though, learned counsel for the petitioner has submitted that case of the petitioner is at par with other accused, who have been granted pre-arrest bail by learned Sessions Judge, Faridkot, vide orders copies Anneuxre P-2 and P-3 and he be also granted that concession. But I find little force in his contention. There cannot be any absolute parity between the accused guilty of committing an offence. The case of each accused is to be examined individually, considering his age, previous criminal record, the role played by such accused and provocation, if any, coming from the complainant side etc. The case of the petitioner can certainly be

distinguished from the other accused, who were granted pre-arrest bail being armed with kirpan and causing injury on the person of Resham Singh. The petitioner is a young man of 27 years as reflected in the memo of parties of the petition, as such, a mature person. He cannot take plea that he is a teenager and yet to attain majority or of old age in the evening of his life. A person having age of 27 years in prime of his youth can certainly understand what is good or bad for him. His indulging in such type of acts cannot be taken lightly and such type of persons are required to be dealt with firmly and sternly, so that potential criminals are deterred from taking law into their hands and indulging in criminal acts.

Custodial interrogation of the petitioner is essential to effect the recovery of weapon used in the incident and for unfolding the complete story as to how the incident was planned and executed, the part played by each one of the accused, from where the weapons were procured and where they were disposed of/concealed after the incident, the motive for doing the same etc. In case, it 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.

The State in its reply has categorically stated that petitioner is one of the prime perpetrators of the crime, creating an atmosphere of insecurity in the town and traumatized not only victim party but the society at large. The apprehension expressed by State counsel that in case he is granted pre-arrest bail, he may indulge in further criminal acts and

would try to threaten and intimidate the prosecution witnesses, adversely affecting the trial and may try to abscond even, cannot be taken lightly.

Thus, in view of the detailed discussion above, the petitioner is not entitled to discretionary equitable relief of pre-arrest bail. The petition is found to be without any merit and is dismissed accordingly.

14.07.2021
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(H.S. MADAAN)
JUDGE

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