

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

(1) CRM-M-18634-2020 (O&M)
Date of decision: 21.01.2021

Menpal

...Petitioner

Versus

State of Haryana

...Respondent

(2) CRM-M-19918-2020 (O&M)
Date of decision: 21.01.2021

Vijay

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr. S.S. Gill, Advocate for the petitioner(s).

Mr. Tanuj Sharma, AAG, Haryana.

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

These petitions for pre-arrest bail under Section 438 Cr.P.C. has been filed by petitioners Menpal and Vijay, both of them being accused in FIR No.156 dated 27.05.2020, for offences under Sections 323, 324, 341, 34 IPC (Section 326 IPC added later on), registered with Police Station Ellenabad, District Sirsa.

Briefly stated facts of the case as per prosecution version are

that criminal machinery in this case was set into motion by complainant Prithvi son of Khiraj, resident of Neemla, aged about 25 years, who in the statement made to the police stated that he along with one Subhash son of Devi Lal, resident of Neemla was getting their agriculture land levelled from Manda Ram contractor on 26.05.2020 at about 12/12.30 afternoon while the complainant was going towards his fields after leaving Subhash at his home, then, Vijay and Menpal sons of Devi Lal, residents of Neemla intercepted the complainant; Vijay having a sharp edged weapon gave a blow there with to the complainant hitting him on his upper lip, which suffered a cut and his teeth were broken; Menpal gave fist blows to the complainant; complainant raised alarm, which attracted people from locality, on their arrival, the assailants ran away from the spot; the complainant/injured was taken to Govt. Hospital Ellanabad from where he was referred to Govt. Hospital, Sirsa where he was medically treated and medico-legally examined; after registration of the formal FIR, the investigation in the matter started.

Apprehending their arrest in this case, petitioners had approached the Court of Sessions at Sirsa by moving applications seeking pre-arrest bail but could not get the relief prayed for. Feeling aggrieved, they have approached this Court by way of filing the present petitions, praying for grant of similar relief, which are being resisted by the State counsel.

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. The allegations against both the petitioners are very grave and serious that they had assaulted the complainant without any rhyme or reason, causing injuries to him. They did so in pursuance of common intention and one of the injury inflicted to the complainant has been found to be grievous in nature. Since, it is stated to be pre-planned and pre-meditated attack with both the petitioners/accused sharing common intention to cause simple as well as grievous injuries to the complainant, both of them are equally liable for all the injuries found on the person of the complainant/injured and they cannot come up with a plea that they are only individually liable for the injuries said to have been caused by them and not by their co-accused also. The custodial interrogation is definitely more elicitation oriented since a person couched in comparative safety of the pre-arrest bail would certainly not disclose all the facts within his knowledge. The custodial interrogation of the petitioners is necessary to find out how the incident was planned and executed and their motive for doing so. The weapon used by petitioner/accused Vijay in the incident is also to be got recovered by him. Though, the petitioners were granted interim bail in this case with a direction to join the investigation but as informed by the State counsel, they have not rendered full cooperation in the investigation

and have not come up with all the facts within their knowledge. In case, custodial interrogation is denied to the investigating agency that shall leave many glaring loopholes and gaps, adversely affecting the investigation, which is uncalled for. Keeping in view the facts and circumstances of the case, no case for pre-arrest bail is made out. The petitions so filed by the petitioners are dismissed.

21.01.2021
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(H.S. MADAAN)
JUDGE

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