

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

CRM-M-23100-2020 (O&M)

Date of decision: 13.01.2021

Sewa Ram

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr. Nitin Sachdeva, Advocate for the petitioner.

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

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

This petition for pre-arrest bail has been filed by petitioner Sewa Ram, an accused in FIR No.56 dated 01.12.2019, for offences under Sections 341, 326, 323 and 34 of IPC, registered with Police Station Khem Karan, District Tarn Taran.

Briefly stated facts of the case as per prosecution version are that, on 19.11.2019, complainant Amrik Singh son of Girdhari Lal, aged about 45 years along with his wife Smt. Kulwant Kaur had gone to Khem Karan in connection with some domestic work, where he had an altercation with petitioner Sewa Ram; that on intervention of people, they were separated; on the same day, at about 7.45 PM, when complainant Amrik Singh along with his wife were returning to their

village Rattoke on motorcycle and had reached near land of Surjit Singh Dagga, complainant spotted petitioner Sewa Ram armed with a datar along with Vicky son of Joginder Singh, resident of Mohan Basti Khem Karan armed with a stick standing ahead; both of them intercepted the motorcycle being driven by complainant; on a lalkara being raised by Sewa Ram that complainant should be caught hold of and taught a lesson for arguing with them, Vicky gave a stick blow, hitting him on right leg, whereas, Sewa Ram gave a datar blow to the complainant and while complainant raised his left arm to save himself, it hit him on the left wrist; stick blow given by Vicky hit the complainant on back side of the waist; after receiving injuries, the complainant fell on the ground, then both the assailants gave kick blows to him; Kulwant Kaur wife of the complainant raised alarm, which attracted several people, then, both the assailants ran away from the spot along with their respective weapons; Kulwant Kaur had called her brother Sukha Ram to the spot who took the injured to their house; on the next day, the injured was taken to Civil Hospital Khem Karan, where he was treated and medico-legally examined; the motive behind the incident was that Fateh Singh, son of brother in-law of complainant, namely, Ballu Singh had a matrimonial dispute with his wife Kanti daughter of Ajit Singh, resident of Bharske and Sewa Ram used to help the opposite side and out of that grouse, Sewa Ram and Vicky assaulted the complainant and caused injuries to him; the respectable persons tried to work out a compromise between the parties

but such attempts proved futile, therefore, the matter was reported to the police; statement of complainant was recorded, which formed the basis for registration of the FIR.

Apprehending his arrest in this case, petitioner/accused had filed a petition for grant of pre-arrest bail before the Court of Sessions at Tarn Taran. His such petition was assigned to Addl. Sessions Judge, Tarn Taran, who vide order dated 03.02.2020, dismissed the same. 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.

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 petitioner is specifically named in the FIR and he is said to have caused grievous injury to the complainant by means of a datar. Datar is a sharp edged weapon of dangerous type. The assault appears to be pre-planned inasmuch as on the fateful day, earlier the petitioner is said to have an altercation with the complainant and thereafter, he along with his co-accused Vicky waylaid the complainant and attacked him, causing multiple injuries. Such act and conduct of the petitioner is to be taken

with all the seriousness. Custodial interrogation of the petitioner is definitely required for complete and effective investigation to effect the recovery of the weapon used in the incident and to find out as to how the incident was planned and executed. In case, the custodial interrogation is denied to the investigating agency that shall leave many gaps, loopholes and lacuna, adversely affecting the investigation, which is uncalled for.

As regards the submissions made by learned counsel for the petitioner that there is a delay in lodging of the FIR and the complainant was taken to the hospital on the next day of the incident and not on the same day. These contentions touch the merit of the case and are not of much relevance, while deciding the question of entitlement of petitioner for grant of pre-arrest bail. These aspects shall be taken care of by the Court conducting the trial in the matter. Even otherwise, delay alone is not fatal to a criminal case, unless, it is accompanied by strong motive for false implication and furthermore, delay if properly explained does not affect the prosecution story adversely. As per case of the prosecution, the delay in reporting the matter took place since talks for amicable settlement between the parties were going on. Furthermore, as regards the complainant having not been taken to hospital on the same day, the explanation rendered that it was on account of fear of the accused party seems to be plausible. Thus, no case for grant of pre-arrest bail is made out. The petition is found to be without any merit and is dismissed accordingly.

13.01.2021

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(H.S. MADAAN)
JUDGE

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