

CRM-M No.31133 of 2021

Date of Decision : 26.08.2021

Bindi Singh

...Petitioner

Versus

State of Punjab

....Respondent

Coram : Hon'ble Mr. Justice B.S. WaliaPresent : Mr. RVS Chugh, Advocate for the petitioner.
Mr. Sukhbeer Singh, AAG, Punjab.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.
2. Prayer in the petition under Section 438 Cr.P.C. is for grant of pre-arrest bail to the petitioner in case FIR No.69 dated 21.06.2021 registered under Sections 323, 341, 186, 427, 353 and 511 IPC to which Sections 324, 148 and 149 IPC were added later on and in which later on Section 326 IPC was further added at Police Station Jhunir, District Mansa.
3. On 10.08.2021, the following order was passed:-

“ Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

Prayer in the petition under Section 438 Cr.P.C. is for grant of pre-arrest bail to the petitioner in case FIR No.69 dated 21.06.2021 registered under Sections 323, 341, 186, 427, 353 and 511 IPC to which Sections 324, 148, & 149 IPC were added later on and in which later on Section 326 IPC was further added at Police Station Jhunir, District, Mansa.

Learned counsel for the petitioner contends that initially the petitioner and other co-accused were granted pre-arrest bail vide order dated 28.06.2021 by the Court of the learned Addl. Sessions Judge, Mansa by observing that question of imposition of Section 353 IPC was debatable while rest of the offences were bailable in nature. Subsequently, statement of the Investigating Officer was recorded on 05.07.2021 that the accused including the petitioner had joined investigation on 30.06.2021 and their custodial interrogation was not required whereupon interim bail order dated 28.06.2021 was made absolute and the petitioner was ordered to be released on anticipatory bail to the satisfaction of the Investigating / Arresting Officer.

Learned counsel for the petitioner contends that subsequently on addition of Section 326 IPC, the petitioner and other coaccused filed a petition for grant of pre-arrest bail and vide order dated 26.07.2021, while the other co-accused were granted pre-arrest bail, bail was denied to the petitioner on the ground that injury on the victim Gurtej Singh i.e. fracture of index finger of right hand was grievous in nature, was caused with a sharp edged weapon and was attributable to the petitioner while the injuries attributed to the co-accused were simple in nature allegedly caused by blunt weapons.

Learned State Counsel has produced copy of the MLR which shows that injury of fracture of index finger of right hand of Gurtej Singh was grievous in nature and was caused with a sharp edged weapon. Although order dated 26.07.2021 passed by the learned Addl. Sessions Judge, Mansa denies anticipatory bail to the petitioner on the ground that the aforementioned injury is attributed to the petitioner yet on the asking of the Court, learned State Counsel has produced copy of statement made by Gurtej Singh injured as per which the petitioner who was chasing Gurtej Singh was empty handed while petitioner's brother Jagtar Singh @ Tari was carrying a kirpan.

Learned counsel for the petitioner contends that in the light of statement of injured-Gurtej Singh, it is apparent that the learned

Addl. Sessions Judge, Mansa has not noted the factual position in the correct perspective.

Notice of motion.

Learned State Counsel accepts notice and requests for time to file reply.

Adjourned to 26.08.2021.

In the meantime, the petitioner is directed to join investigation and fully cooperate with the police. However, in the event of arrest, the petitioner be released on ad-interim pre-arrest bail, subject to his furnishing bail/surety bonds to the satisfaction of the Arresting / Investigating Officer. The petitioner shall abide by the conditions envisaged under Section 438(2) Cr.P.C., failing which, the interim protection granted to the petitioner, shall stand vacated. ”

4. Today, learned counsel for the petitioner contends while learned State counsel, on instructions from *ASI Gurdarshan Singh*, confirms that pursuant to the order of this Court dated 10.08.2021, the petitioner joined investigation, fully cooperated with the police, was released on ad interim pre arrest bail and that his custodial interrogation is not required.

5. In view of the statement of learned State counsel, order dated 10.08.2021, passed by this Court, is made absolute. The petitioner shall abide by the terms and conditions enumerated in Section 438(2) Cr.P.C. However, nothing stated hereinabove shall be read as an expression of opinion on the merits of the case.

6. Petition stands *disposed of* in the aforementioned terms.

(B.S. Walia)
Judge

26.08.2021

'Rajneesh/Amit'

<i>Whether speaking/ reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>