

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

CRM-M-25466-2020

Date of decision:-16.2.2021

Narender @ Nandru

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.Rajinder Malik, Advocate
for the petitioner.

Mr.Dhruv Sheoran, DAG, Haryana.

Mr.Vivek Khatri, Advocate
for the complainant.

H.S. MADAAN, J.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Narender @ Nandru, aged about 40 years, resident of village Dubaldhan, District Jhajjar, an accused in FIR No.179 dated 1.6.2020, under Sections 323, 506 and 34 IPC (later on added Section 307 IPC), registered with Police Station Beri, District Jhajjar.

Briefly stated, the facts of the case as per the prosecution story are that on 31.5.2020 at about 10:00 p.m., Sukhbir, father of

complainant Amit was sleeping in his farm house at village Dubaldhan, District Jhajjar; at about 12:00 midnight Sukhbir called his son Amit, the complainant and told him that Narender @ Nandru, petitioner/accused belonging to his village along with another person while being under the influence of liquor were giving beatings to him; the complainant along with his cousin brother Umesh went to their farm and saw that Sukhbir had been knocked down by Narender @ Nandru and another person and they were giving kick blows to him on knee, chest, genitals and eyes; on seeing the complainant and Umesh coming there, both the assailants ran away from the spot holding out threats. Injured was taken to hospital at Beri from where he was referred to PGIMS, Rohtak. He was medically treated and medico-legally examined. On the basis of statement of complainant Amit, formal FIR in the matter was recorded. Initially the FIR was registered for the offences under Sections 323, 506 and 34 IPC. Petitioner Narender @ Nandru was arrested in this case on 10.6.2020. However, he was released on bail on 11.6.2021. Subsequently, on receipt of medical opinion offence under Section 307 IPC was added.

Apprehending his arrest in this case, the present petitioner had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, which was assigned to learned Additional Sessions Judge, Jhajjar. However, his such request was declined by learned Additional Sessions Judge, Jhajjar vide detailed order dated 19.8.2020. As such, the present petitioner has approached this Court by way of filing the instant petition asking for the similar relief.

Notice of the petition was issued to respondent – State.

Counsel representing State has appeared on behalf of respondent – State. The complainant has also appeared through counsel.

I have heard learned counsel for the parties besides going through the records.

Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from arrest and custodial interrogation.

The petitioner is named in the FIR and there are specific allegations that he along with his co-accused while being under the influence of liquor had caused multiple injuries to victim Sukhbir. Sukhbir is said to have remained admitted in ICU for 15 days and his six ribs were found broken. The injuries observed on his person were found to be dangerous to life, as such offence under Section 307 IPC was added. Though the petitioner had been released on bail earlier since by that time opinion of the doctor had not been received but that does not mean that petitioner is entitled to pre-arrest bail in this case as a matter of right. He along with his co-accused having brutally assaulted Sukhbir while being under the influence of liquor, resulting in his six ribs getting fractured. The petitioner is certainly not entitled to grant of pre-arrest bail. Though counsel for the petitioner has referred to judgment **Husan Chand Versus State of Haryana, 2013 (8) RCR(Criminal)3014** by a Co-ordinate Bench of this Court and Manoj Suresh Jadhav & Ors. Versus The State of Maharashtra, petition for Special Leave to Appeal (Criminal) No(s).10179/2017 decided on 7.5.2018. However, these authorities do not

come to help the petitioner due to different facts and circumstances and the context in which such observations had been made.

It may be pointed out that co-accused of the petitioner namely Shamsheer alias Sonu, who was not named in the FIR even has been declined the relief of pre-arrest bail by a Co-ordinate Bench of this Court vide order dated 13.10.2020 passed in CRM-M-28222-2020, copy of which is available on the record as Annexure A-1.

In case of *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Custodial interrogation of the petitioner is definitely required for unfolding the complete story as to how the incident was planned and executed. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called for.

Finding no merits in the petition, the same stands dismissed.

16.2.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No