

CRM-M-35455-2021 (O&M)

Date of Decision :11.10.2021

NIRMAL SINGH @ BHOLA SINGH

...Petitioner

Versus

STATE OF PUNJAB

....Respondent

Coram : Hon'ble Mr. Justice B.S. WaliaPresent : Mr. Rashpinder Singh Sohi, Advocate
for the petitioner.

B.S. Walia, J. (VC)

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

CRM-34262-2021

[2] Prayer in this application is for placing on record MLRs of the petitioner as well as co-accused.

[3] Application is allowed subject to all just exceptions. MLRs of the petitioner and other co-accused are taken on record.

CRM-M-35455-2021

[4] Prayer in the petition under Section 438 Cr.P.C. is for grant of pre-arrest bail to the petitioner in case FIR No.100 dated 25.07.2021, registered under Sections 452, 341, 323,506 and 34 IPC (Section 325 IPC added later on), at Police Station Sadar Malout, District Sri Muktsar Sahib.

[5] Learned counsel contends that the petitioner has been falsely implicated and in fact it was the complainant, who attacked the petitioner

resulting in the petitioner and co-accused sustaining simple injuries.

[6] Notice of motion.

[7] Mr. Sandeep Singh Deol, DAG, Punjab, accepts notice and vehemently opposes the prayer for grant of pre-arrest bail by contending that FIR in the instant case was registered against the petitioner and other co-accused for mercilessly beating up the complainant and his wife besides causing grievous injuries after trespassing into the house of the complainant, solely on the suspicion of the complainant/his family members going to answer the call of nature in the fields of the accused.

[8] Learned DAG contends that as per the FIR, on 23.07.2021 at 6:00 am, when the complainant reached the water drain of the village to answer the call of nature, Jimidar Jagdev Singh and Bhola Singh sons of Sadhu Singh, who were standing on the edge of their field, out of whom, Bhola Singh i.e. the petitioner was carrying a dang started abusing the complainant on the pretext that he was dirtying their fields. The, complainant informed the accused that he was not going to their field, following which the accused started beating the complainant, dragged him, with the petitioner inflicting a dasti daang blow on the complainant's waist. The complainant somehow managed to escape and come back to his house and informed Sarpanch Gurpreet Singh @ Gori, who said that he would call the accused and make them apologize. Thereafter, the complainant went back to his house and was sitting there at about 12:00 pm along with his wife Pana Bai and younger sister-in-law Sumitri Devi and were talking with each other while sitting in the small porch inside their house. Then, Jagdev Singh son of Sadhu Singh armed with hard, thread plastic pipe, Bhola Singh son of Sadhu Singh armed with gandasi and another person, whose name came to be known later as Joginderjeet

Singh son of Amarpal Singh, armed with kappa came on a motorcycle and entered the complainant's house and started abusing him by saying that they would teach him a lesson for complaining against them to the Sarpanch. Thereafter, the petitioner gave three continuous blows of his gandasi from the reverse side on the left arm of the complainants wife Pana Bai, while Joginderjeet Singh gave a handle blow of kappa in the chest of complainant's wife and on the complainant and his family members raising noise of 'maarta maarta' and calling people from the street to rescue them, the aforesaid three accused beat the complainant outside the house in the street. Jagdev Singh gave many blows of the hard plastic pipe on the back and legs of the complainant while Joginderjeet Singh made an attempt to give blow of his dasti kappa on the complainant's head which hit the complainant's right arm, while the petitioner i.e. Bhola Singh @ Nirmal Singh gave dasti gandasi blow from reverse side upon the back and three blow on the right arm of the complainant. On hearing alarm of 'maarta maarta' of the complainant's wife Pana Bai and younger sister-in-law Sumitri Devi, people from the surrounding areas gathered whereafter the accused fled while giving threats to eliminate the complainant and his family members.

[9] Learned DAG contends that motive for the incident was that the petitioner and his brother Jagdev Singh harboured a doubt that the complainant used to go to their field to answer the call of nature.

[10] Learned DAG Punjab, on instructions from ASI Gurmeet Singh contends that the complainant received a daang blow on his waist inflicted by the petitioner which is simple in nature. Thereafter, the petitioner and his brother and another person trespassed in the house of the complainant

and gave three gandasi blows with the reverse side to the wife of the

complainant Pana Bai and also injuries with reverse side of the gandasi on the right arm of the complainant which resulted in fracture of the right arm of the complainant. Besides, the complainant was also beaten up mercilessly by Jagdev Singh with the plastic pipe on the back and legs resulting in simple injuries.

[11] Learned DAG contends that the petitioner and co-accused having mercilessly beaten up the complainant, aged more than 65 years of age resulting in fracture of his right arm, besides inflicting injuries on the complainants wife are not entitled to grant of pre-arrest bail on account of the serious nature of the allegations. Moreover, custodial interrogation of the petitioner is necessary to effect recovery of the weapons used in the commission of the offence.

[12] Learned DAG further contends that the order of the learned Additional Sessions Judge, Sri Muktsar Sahib, also refers to video clip of the incident showing the merciless beatings given by the petitioner and co accused to the complainant and his family members.

[13] I have considered the submissions of learned counsel. In the light of position as noted above but without commenting upon the merits of the case, I am of the view that no circumstances exist warranting interference with the well reasoned order passed by the learned Additional District and Sessions Judge, Sri Muktsar Sahib, as not only are the allegations very serious but the petitioner and his co-accused behaved in a depraved and cruel manner by mercilessly beating up the 65 year old complainant as well as his wife resulting in fracture of arm of the complainant solely on account of suspicion of the complainant using their field to answer the call of nature.

[14] Dismissed. However, nothing stated hereinabove shall be construed to be an expression of opinion on the merits of the case.

(B.S. Walia)
Judge

11.10.2021
Neenu
Whether speaking/ reasoned : Yes/No

Whether reportable : Yes/No