

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M- 36703 of 2020 (O&M)

Date of decision : 12.1.2021

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Chinnder Kaur and another

.....Petitioners

vs.

State of Punjab

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Ashish Grover, Advocate for the petitioners

Mr. Sukhbeer Singh, Assistant Advocate General,
Punjab.

Mr. Gurinder Singh Hayer, Advocate for the complainant

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H. S. Madaan, J. (Oral)

Case taken up through video conferencing.

This petition for pre-arrest bail under Section 438 Cr.P.C., has been filed by petitioners – Chinnder Kaur, aged about 33 years, w/o Dharampal and Baldev Ram, aged about 35 years, s/o Mohinder Ram, both residents of village Kheowali, Tehsil Malout, District Sri Muktsar Sahib, both of them being accused in case DDR No. 23 dated 10.5.2020 for offences under Sections 307, 326, 450, 324, 323, 506, 148, 149, 188, 269 IPC and Section 151 of Disaster Management Act, 2005 and Section 3 of Epidemic Disease Act, 1897, in cross case FIR No. 88 dated 8.5.2020, for offences under Sections 323, 324, 148, 149, 341, 506, 427, 188, 269 IPC, registered at Police

Station Lambi, District Sri Muktsar Sahib.

Briefly stated, facts of the case, as per prosecution story, are that on 6.5.2020, when Kashmir Singh s/o Midda Ram, resident of village Kheowali, aged about 37 years, alongwith his younger brother Jagseer Ram and father Midda Ram, had gone to the house of his paternal uncle (Chacha) Kaka Singh, and were enquiring about his health, at about 9.45 A.M., a Mohindra Pick-up vehicle stopped in front of house of Kaka Singh. The main gate of the house was open. Dharam Pal s/o Mohinder Ram armed with a kirpan, Roop Chand s/o Mohinder Ram, armed with a dang, Mohinder Ram s/o Baja Ram armed with a Khanda, Bittu Ram s/o Mohinder Ram armed with a Sota, Piari Bai w/o Mohinder Ram armed with a Sota, Chhinderpal Kaur w/o Dharampal armed with a Toki, Kisna Devi w/o Roop Chand armed with a pipe, Vakil Ram s/o Dharampal armed with a Dang, Meeto Bai w/o Baldev Ram armed with an iron rod, Laddo Rani w/o Dharampal empty handed, all residents of village Kheowali alongwith 5-6 unidentified persons trespassed in house of Kaka Singh. Dharampal raised a lalkara that complainant side should be taught a lesson for levelling false allegations. Saying that Dharampal gave two kirpan blows to Kashmir Singh, hitting him on the left side of his head and fingers of his left hand. Chhinderpal Kaur gave a toki blow, hitting Kashmir Singh on back side of his head. Baldev Ram gave a kappa blow, hitting Kashmir singh on thumb of his right hand. Thereafter Roop chand gave two dang blows, which hit Kashmir Singh on his hip joint and left buttock. Mohinder Ram gave

a dang blow hitting Kashmir Singh on his chest. Vakil Singh gave dang blow hitting Kashmir Singh on his buttock. When Kaka Singh came forward to save Kashmir Singh, then Roop Chand gave two dang blows to Kaka Singh hitting him on his head. Dharam Pal gave two Kirpan blows to Kaka Singh hitting him on his neck and right arm. All the assailants caused injuries to Jagseer Ram, brother of complainant Kashmir Singh and Balwinder Singh s/o Kaka Singh. Laddo Rani gave kick blows to Kaka Singh in his abdomen, while he was lying on the ground. On alarm being raised by the victims and on arrival of a neighbour Desa Ram, all the assailants ran away from the spot alongwith their respective weapons. Injured were taken to the hospital, where they were medically treated and medico legally examined. The motive for the incident was that brother of Kashmir Singh had taken away Jaswinder Kaur w/o Jagseer Ram by misleading her and complainant side had supported them, so accused had caused injuries to them. The version given by Kashmir Singh was recorded in DDR No. 23 dated 10.5.2020 in cross case FIR No. 88 dated 8.5.2020.

Apprehending their arrest in this case, the accused had approached the Court of Sessions at Sri Muktsar Sahib, seeking pre-arrest bail. Their such application was assigned to Additional Sessions Judge, Sri Muktsar Sahib, who vide order dated 14.9.2020, had dismissed the application. Chinnder Kaur and Baldev Ram have brought the instant petition before this Court craving for grant of pre-arrest bail, which request is being opposed by learned State counsel,

as well as learned counsel for the complainant.

I have heard, learned counsel for the petitioners, learned State counsel, learned counsel for the complainant, besides going through the record and I find that facts and circumstances of the case do not warrant grant of discretionary equitable relief of pre-arrest bail to the petitioners.

As per the settled law, pre-arrest bail is not to be granted in routine, but in exceptional circumstances, to save the innocent persons from harassment and any inconvenience and not to shield the criminals from arrest and custodial interrogation. Here the facts and circumstances of the case show that petitioners alongwith their co-accused, while armed with deadly weapons had trespassed in house of Kaka Singh and went on rampage indulging in merciless assault of Kashmir Singh, Kaka Singh, Jagseer Ram and Balwinder Singh, causing multiple injuries to them. Injury attributed to Chinnder Kaur has been declared to be dangerous to life, whereas as regards Baldev Ram, the injury attributed to him on the person of Balwinder Singh has been found to be grievous in nature. The custodial interrogation of both these assailants is found to be necessary for complete and effective investigation, so as to find out as to how the incident was planned and executed and who are the other persons, who were involved in the planning of the incident. In case custodial interrogation of the petitioners is denied to the investigating agency, that would leave many lacuna, loopholes and gaps in the investigation, adversely affecting the investigation, which

is not called for.

Though when the case came up for hearing on 9.11.2020, petitioner Baldev Ram was granted interim bail with a direction to join the investigation and as submitted by the State counsel, he has since joined the investigation and got recovered Kappa, but merely due to that reason, if his custodial interrogation is refused, that shall cause hindrance in effective investigation. As observed in authority **State represented by the CBI vs. Anil Sharma, 1997 (4) RCR (Criminal) 268,** custodial interrogation is more elicitation oriented since a person who is couched in comparative safety of pre-arrest bail, would certainly not disclose all the facts within his knowledge, which would be inculpatory for him.

As regards, there being cross version of the incident, the culprits in that version shall be dealt with separately. However, the petitioners cannot possibly gain any help in the present proceedings on account of counter version of the incident being there.

Thus, the petition is doomed for failure and is dismissed accordingly.

However, nothing discussed above shall have any bearing on the merits of the case.

12.1.2021
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(H.S. Madaan)
Judge

Whether speaking / reasoned

Yes / No

Whether reportable

Yes / No