

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

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CRM-M-42687-2021.

Date of Decision: 09.12.2021.

Nachattar Singh

....Petitioner.

Versus

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Maninder Singh Bajwa, Advocate for petitioner.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video Conferencing.

This petition under Section 438 Cr.P.C. for grant of pre-arrest bail has been moved by petitioner-**Nachattar Singh** in case FIR No.06 dated 28.01.2020 under Sections 323, 325, 326 and 506 IPC read with Section 34 IPC, registered at Police Station Khem Karan, District Tarn Taran.

Learned counsel for the petitioner *inter alia* contends that allegations levelled in the FIR are totally concocted, false and frivolous and there is no iota of truth therein. He further urges that as per FIR version, allegedly petitioner inflicted injuries with *Gandasi* (a sharp-edged weapon) on the person of complainant-Joginder Singh. He further urges that though alleged occurrence took place on 20.01.2020, whereas present FIR was lodged on 28.01.2020 and as such there was inordinate delay of eight days

in lodging the FIR and that too unexplained one, which creates doubt in the veracity of complainant's version. He further submits that co-accused namely Ranbir Singh and Karambir Singh @ Karanbir Singh have already been extended the concession of interim pre-arrest bail by this Court, vide order dated 19.03.2020 passed in CRM-M-11620-2020 (Annexure-P/2). He further urges that nothing incriminating is to be recovered at the instance of petitioner. He further submits that though petitioner has no nexus whatsoever with the alleged offence, he is ready to join investigation as and when called upon to do so by the Investigating Agency, thus, concession of pre-arrest bail may be extended to him.

Notice of motion.

At the asking of Court, Mr. Anmol Singh Sandhu, Assistant Advocate General, Punjab, accepts notice on behalf of respondent-State. Complete copy of paperbook has been supplied to him.

Learned State counsel while opposing the cause of petitioner has vehemently argued that on 20.01.2020 at about 5:30 PM, petitioner while armed with *Gandasi* (a sharp-edged weapon) inflicted *Gandasi* blows on the head as well as left ear of complainant-Joginder Singh. He further submits that simple as well as grievous injuries on the vital organs (head and left ear) of complainant-Joginder Singh have been attributed to petitioner and further injury of left ear has resulted in permanent disfigurement of face of said Joginder Singh. He further submits that weapon used in the commission of offence is yet to be recovered at the instance of petitioner. He further urges that since co-accused namely Ranbir Singh and Karambir Singh @ Karanbir Singh, sons of petitioner, inflicted

injuries on the person of complainant-Joginder Singh, by means of blunt weapons, petitioner cannot seek parity qua them. He further urges that in view of nature of offence committed by the petitioner, his custodial interrogation is required to unveil the truth and as such he is not entitled to the concession of pre-arrest bail.

I have heard learned counsel for the parties and have carefully gone through the record of the case.

Without commenting anything on the merits of the case, lest it may prejudice the case of either of the parties, allegedly petitioner while armed with deadly weapon (*Gandasi*) inflicted multiple injuries including grievous one on the head as well as left ear of complainant-Joginder Singh. Pre-arrest bail is not to be granted as a matter of routine/course in all cases. The grant or refusal of such bail depends on the variety of circumstances, the cumulative effect of which, should enter the judicial verdict. The power under Section 438 Cr.P.C. is to be exercised sparingly and in exceptional cases keeping into focus the facts and circumstances of each case. At the same time, it is well-settled that the order of anticipatory bail cannot be allowed to circumvent normal procedure of arrest and investigation by the police. The Court has also to see that the investigation is in the province of the police and an order of anticipatory bail should not operate as an in-road into the statutory investigational powers of the police, in exercising the judicial discretion in granting the anticipatory bail. The Court should not be unmindful of the difficulties likely to be faced by the Investigating Agency and the public interest likely to be affected thereby in this relevant connection. In a given situation, custodial interrogation of petitioner is

certainly required for complete and effective investigation. In case, same is

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denied to the Investigating Agency that shall leave many glaring loopholes and gaps, adversely affecting investigation, which is uncalled for. Keeping in view totality of entire scenario and nature of offence, no extra-ordinary ground has been made out in favour of petitioner for his entitlement to pre-arrest bail.

As a sequel to above, instant petition for grant of pre-arrest bail moved by the petitioner is dismissed.

(LALIT BATRA)
JUDGE

09.12.2021

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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No