

201 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-38763-2020(O&M)  
Date of decision: 29.01.2021

Gurmail Singh @ Toni

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. K.S.Lakhanpal, Advocate for the petitioner

Ms. Samina Dhir, DAG, Punjab

ANIL KSHETARPAL, J. (ORAL)

On 16.12.2020, following order was passed by this Court:-

“On 24.11.2020, while noticing the contentions of learned counsel for the petitioner, the following order was passed:-

*“The petitioner prays for grant of pre-arrest bail in a criminal case arising from FIR No. 34, dated 07.05.2020, registered under Section 307, 452, 326, 324, 323 & 34 IPC at Police Station Sadar Gurdaspur, District Gurdaspur.*

*This is second petition filed by the petitioner for grant of pre-arrest bail. The first petition, filed by the petitioner, was disposed of by relegating him before the Court of Sessions. The additional Sessions Judge has dismissed the application.*

*The case of the prosecution has been noticed by the learned Additional Sessions Judge in para 3, of its order dated 20.05.2020, passed while considering the bail application of Sukhbir Singh alias Sukha, which is extracted as under:-*

*“The present case was registered against the accused/applicant and others on the basis of statement of complainant Parambir Singh son of Tejinder Singh resident of village Halla, P.S. Sadar Gurdaspur who stated to the*

*police that he is a resident of above mentioned address and sometime ago he returned from Dubai and presently he is doing domestic work. On 05.05.2020 he and his mother Varinder Kaur wife of Tejinder Singh resident of village Halla were present in the house and the time will be at about 1:15 P.M., he opened the main gate of their house on knocking the same by some one where Dapinder Singh son of Amrik Singh resident of village Halla armed with kirpan, his brother Sukhwinder Singh @ Sukha son of Amrik Singh resident of village Halla armed with kirpan and Tony son of Mohinder Singh resident of Behrampur Road Gurdaspur armed with baseball were standing there. Then Dapinder Singh @ Jyoti raised a lalkara by saying that Parambir Singh be taught a lesson for beating their father. Then Dapinder Singh @ Jyoti gave the straight blow of his kirpan on his head with an intention to kill him (complainant) and to ward off that blow, he raised his left hand, but that blow hit him on the fingers of left hand and on the thumb. To rescue himself he came in the courtyard of his house and the assailants followed him and entered in his house. Thereafter Sukhwinder Singh @ Sukha gave his kirpan blow to him which hit him at his left knee. Then Tony son of Mohinder Singh resident of Behrampur Road Gurdaspur gave two blows of his baseball which hit him at the knee of left arm and on the right side of his neck. The assailants have caused these injuries to him with an intention to kill him. He fell down the ground. He and his mother Varinder Kaur raised alarm of "Mar Ditta" "Mar Ditta" and their neighborer Gagandeep Singh son of Jgoinder Singh resident of village Halla also reached at the spot and all the assailants fled away from the spot with their respective weapons. The whole occurrence was witnessed by his mother Varinder Kaur and Gandeep Singh. Then his father Tejinder Singh after arranging conveyance admitted him in the Civil Hospital Gurdaspur for treatment where doctor cut his MLR and given him first aid. Due to several injuries he was referred to Abrol Hospital Gurdaspur for further treatment. The motive behind the occurrence is that in the month of February, 2020 a quarrel*

*was taken place between him and Amrik Singh of village Halla and due to this revenge all the assailants in connivance with each other have caused him injuries. On the basis of these allegations the present case was registered against the accused/applicant and others.”*

*Learned counsel for the petitioner contends that the prosecution has already deleted the offences under Section 307 and 452 IPC, whereas the offence under Section 326 IPC, has been added. He submits that the petitioner has been alleged to be armed with a baseball bat and has given injuries on the left arm and right side of the neck of the injured-first informant which have been declared simple and there is a delay of two days in lodging the FIRs. He further submitted that infact, this FIR has been got registered as a counter blast to FIR No. 18, dated 29.02.2020, registered from the side of the petitioner. He further submitted that the petitioner has already joined investigation pursuant to the order passed by the learned Additional Sessions Judge.*

*Notice of motion.*

*On the request of the Court, Mr. V.G. Jauhar, Senior Deputy Advocate General, Punjab, accepts notice on behalf of the respondent and prays for time to seek instructions.*

*Keeping in view the aforesaid facts, it is considered appropriate that let the petitioner join investigation. In the event of arrest of the petitioner, he shall be released on interim pre-arrest bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.*

*List on 16.12.2020”.*

Ms. Samina Dhir, Deputy Advocate General, Punjab has informed the Court that the petitioner has not come forward to join investigation.

On the other hand, learned counsel for the petitioner submits that the petitioner suffered from COVID-19 and therefore, he could not visit the police station to join investigation. He prays for a short adjournment to comply with the order dated 24.11.2020.

List on 29.01.2021.

A last opportunity is granted to the petitioner to

comply with the order dated 24.11.2020. No further request for an adjournment shall be entertained.”

Learned State counsel on instructions from ASI Narinder Singh has submitted that the petitioner has joined the investigation, cooperated and is not required for further custodial interrogation.

In view of the above, the order dated 16.12.2020 is hereby made absolute.

Petition stands allowed.

**29.01.2021**

rekha

Whether speaking/reasoned

Whether Reportable

**(ANIL KSHETARPAL)**

**JUDGE**

Yes / No

Yes / No