

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

104

CRM-M-43394-2021.

Date of Decision: 10.11.2021.

Balwant Singh @ Bantu

....Petitioner.

Versus

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Manjinder Singh Saini, Advocate for petitioner.

Mr. Anmol Singh Sandhu, Assistant Advocate General, Punjab.

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-**Balwant Singh @ Bantu** in case FIR No.151 dated 10.11.2020 under Sections 323, 324 and 452 IPC read with Section 34 IPC (Sections 325 and 326 IPC added lateron), registered at Police Station Chabbewal, District Hoshiarpur.

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 *Datar* on the persons of complainant-Balwinder Kaur and her sister-in-law Sandeep Kaur. He further urges that though alleged occurrence took place on 09.11.2020 at about 10:30 AM, whereas present FIR was lodged on 10.11.2020 at 6.40 PM and as such there was inordinate delay of thirty two hours in lodging the FIR

and that too unexplained one, which creates doubt in the veracity of complainant's version. He further urges that as a matter of fact, complainant-Balwinder Kaur and petitioner were in friendship and when the factum of their friendship came to the notice of Jarnail Singh, husband of complainant, the present FIR has been got registered at the instance of said Jarnail Singh. He further urges that even if concocted story of complainant is believed to be true one, injury attracting offence under Section 326 IPC is on the right thumb of injured-Sandeep Kaur and the same is on the non-vital organ of the body. 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.

On the other hand, learned State counsel while opposing the cause of petitioner has vehemently argued that on 09.11.2020 at about 10:30 AM, petitioner while armed with *Datar* (sharp-edged weapon) committed trespass into the house of complainant-Balwinder Kaur and then inflicted three *Datar* blows on her person, causing injuries near the thumb above the palm of her right hand; on the front of her right arm; and little finger of her right hand. He further urges that when Sandeep Kaur, sister-in-law of complainant, came to her rescue, she was also inflicted *Datar* blow, causing injury on her right thumb. He further urges that as per Medico-Legal Reports (Annexures R-1 and R-2) of complainant-Balwinder Kaur and injured-Sandeep Kaur, injury No.3 on the person of complainant-Balwinder Kaur, whereas injury No.1 on the person of injured-Sandeep Kaur, were

declared 'grievous in nature' and on the basis thereof, offence under Sections 325 and 326 IPC were added in the array of offence, vide DDR No.20 dated 24.12.2020. 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 (*Datar*) committed trespass into the house of complainant-Balwinder Kaur and inflicted multiple injuries including grievous one on her person and when Sandeep Kaur, sister-in-law of Balwinder Kaur, came to her rescue, she was also inflicted grievous injury on her person. 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 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

10.11.2021
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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No