

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

201

CRM-M-36264-2019

Date of Decision: 06.12.2021

Avtar Singh and another

....Petitioners.

Versus

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. G.S. Sandhu, Advocate for the petitioners.

Mr. Mehardeep Singh, Additional AG, Punjab.

Mr. N.K. Manchanda, Advocate for the complainant.

Lalit Batra, J.(Oral)

This petition under Section 438 Cr.P.C. for grant of pre-arrest bail has been moved by petitioners in case FIR No.78 dated 19.06.2019 under Sections 148, 323, 324 and 427 IPC read with Section 149 IPC [Section 326 IPC and Sections 3 and 4 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short 'the SC/ST Act'), added later on] registered at Police Station Kot Ise Khan, District Moga.

Learned counsel for the petitioners while reiterating the cause of petitioners submits that as a matter of fact complainant party attacked upon the petitioners' party, wherein Baldev Singh had sustained injury on head and that too by sharp-edged weapon and further petitioner - Mukhtiar Singh as well as Gurmeet Singh and Chanan Singh had also sustained simple as well as grievous injuries and that too by means of sharp-edged weapons. He further submits that it is yet to be decided during the course of trial as to which party was the aggressor one. He further urges that

petitioner No.1- Avtar Singh has been falsely implicated as he was 40-45 kilometers away from the place of occurrence at the time of alleged incident. He further submits that offence under Sections 3 and 4 of the SC/ST Act has been added later on and moreover essential ingredients of said offence are not made out. He further submits that apart from provisions of Section 438 Cr.P.C., this Court has got inherent powers to issue direction under Section 482 Cr.P.C. to grant concession of pre-arrest bail and in a given scenario applicability of provisions of SC/ST Act is also debatable at this stage in view of the disputed facts and resultantly bar of Section 18-A of SC/ST Act shall not be applicable.

Learned State counsel, on instructions from Assistant Sub Inspector Gura Singh, submits that in compliance of order dated 02.09.2019, petitioners have already joined investigation and are not required for further investigation or any kind of custodial interrogation.

In view of above, order dated 02.09.2019 granting interim bail to petitioners, is made absolute. Petitioners shall abide by the conditions as laid down under Section 438(2) Cr.P.C. in letter and spirit.

Petition is disposed of accordingly.

(LALIT BATRA)
JUDGE

06.12.2021

d.gulati

Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No