

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

CRM-M-43127-2020 (O&M)

Date of decision: 08.03.2021

Rakesh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Pratham Sethi, Advocate for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

H.S. MADAAN, J.

CRM-6504-2021

Allowed as prayed for, subject to all just exceptions.

Main Case

Case taken up through video conferencing.

This petition for pre-arrest bail has been filed by petitioner Rakesh, an accused in FIR No.0588 dated 11.12.2020, for offences under Sections 148, 149, 323, 452 and 506 IPC, registered with Police Station Kharkhoda, District Sonapat.

In nutshell, the prosecution story is that, on 10.12.2020 at about 8.30 AM, while complainant Sandeep son of Balwan was tethering his cattle in his plot at Village Sisana-2, Kharkhoda, Sonapat, then petitioner/accused Rakesh along with his brother Rajesh

accompanied by 7/8 other persons armed with axes, rods, lathies, bitta and other sharp edged weapons reached there and attacked the complainant with intention to kill him; it was on intervention of mother of the complainant that the complainant managed to leave the spot and go to the house of Jai Kishan; the assailants followed him and attacked him there; Rajesh gave kulhari blow to the complainant, hitting him on head; Rakesh having a sharp edged weapon and 7/8 others persons having rods, lathies etc., gave severe beatings to the complainant when Har Kaur wife of Jai Kishan and mother of complainant tried to intervene, they were also attacked; Har Kaur suffered serious injuries; on information being given by complainant to the police, formal FIR was registered; the investigation in the case started.

Apprehending his arrest in this case, petitioner/accused had approached the Courts of Sessions at Sonapat by moving an application for grant of pre-arrest bail. His such application was assigned to Addl. Sessions Judge, Sonapat, who vide order dated 15.12.2020, dismissed the same. Feeling aggrieved, the petitioner has approached this Court, craving for grant of similar relief, which request is being opposed by the State counsel.

I have heard learned counsel for the parties besides going through the record and I find that the instant petition is doomed for failure.

Pre-arrest bail is a discretionary equitable relief, which is to be granted by the Court in rare and exceptional circumstances to

save the innocent persons from harassment and inconvenience and not to provide protective umbrella to the criminals enabling them to avoid arrest and interrogation by the investigating agency and nobody can claim it as a matter of right. Here the petitioner is specifically named in the FIR and he comes out to be a habitual criminal inasmuch as in the State reply filed by it has categorically asserted that in addition to the present case, the petitioner is involved in three more criminal cases, the details of which being as under:-

1. FIR No.92 dated 13.03.2019, under Sections 148, 149, 323, 324, 341 and 506 IPC, PS Kharkhoda.
2. FIR No.180 dated 26.04.2019, under Section 379 IPC, PS Urban Estate, Rohtak.
3. FIR No.13 dated 26.02.2019, under Sections 427, 511, 457 and 380 IPC, PS IMT, Rohtak.

It comes out that the petitioner is in habit of committing crime. Such type of person can certainly be not granted discretionary equitable relief of pre-arrest bail; granting him such concession would rather encourage him to take part in criminal activities further, without deterrence to the fact that he would be arrested and send behind the bars for any crime committed by him. Furthermore, custodial interrogation of the petitioner is found to be necessary for complete and effective investigation to find out as to how the incident was planned and executed, the names and addresses of other persons involved in the incident, the role played by each one of them, from where the arms were procured and where they were kept after the

incident. In case, it is denied to the investigating agency that shall leave many gaps, loopholes and lacuna, adversely affecting the investigation, which is uncalled for. In case of **State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268**, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

The petition is found to be without any merit and is dismissed accordingly.

08.03.2021

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**(H.S. MADAAN)
JUDGE**

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