

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

CRM-M-43091-2020

Date of decision:-3.3.2021

Maan Singh

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr.Sanjeev Kodan, Advocate
for the petitioner.

Mr.J.S. Ghuman, DAG, Punjab.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Maan Singh, aged about 63 years, resident of Ward No.10, Gurudwara Guhla, Kaithal, Gohla, Haryana, an accused in FIR No.53 dated 10.3.2020, under Sections 307, 353, 186, 323, 324, 188, 148, 149 IPC and Sections 25 and 27 of Arms Act, registered with Police Station Sultanpur Lodhi, District Kapurthala.

Briefly stated, the facts of the case as per the prosecution

story are that on 10.3.2020 ASI Kuldeep Singh posted at Police Station Fattudhinga, District Kapurthala along with Inspector Chanan Singh, SHO of said police station and other police personnels was on duty with DSP, Sultanpur Lodhi. Sh.Mela Singh, Naib Tehsildar was also on duty at the spot, where some persons belonging to Nihang Sect of the Sikhs had pitched tents in front of stadium and they having firearms were roaming about in the area in violation of prohibitory orders promulgated by District Magistrate, Kapurthala, creating scare amongst the devotees visiting Gurudwara Shri Bair Sahib. The police force was divided into several groups and they went towards the fields along side the stadium, then the Nihang Singhs attacked the police party with intention to kill. The police officials saved their lives with great difficulty. On reinforcement of police reaching the spot, Nihang Singhs ran away. The police officials searched the tents raised by Nihang Singhs and found .315 bore rifle, 12 bore gun and revolver of .32 bore along with ammunition therefrom. ASI Kuldeep Singh had got injured, as a result of attack by Nihang Singhs. He was taken to Civil Hospital, Sultanpur Lodhi by his colleagues. On the basis of statement made by ASI Kuldeep Singh, formal FIR was recorded. After registration of the FIR, the investigation in the case started. The complainant had made supplementary statement on 12.3.2020 in which he disclosed about the injuries suffered by him. Vide report No.18 dated 15.3.2020, 23 culprits were nominated, which included present petitioner Maan Singh and offences under Sections 107 and 120-B IPC were also added.

Apprehending his arrest in this case, the present petitioner

had approached the Court of Sessions at Kapurthala seeking grant of pre-arrest bail by filing an application, which was assigned to Additional Sessions Judge, Kapurthala. However, his such application was dismissed by learned Additional Sessions Judge, Kapurthala vide detailed order dated 20.7.2020. As such, the present petitioner has come to this Court by way of filing the instant petition praying for the similar relief.

Notice of the petition was issued to respondent – State. Mr.J.S. Ghuman, DAG, Punjab appearing on behalf of respondent-State is opposing the petition.

I have heard learned counsel for the parties besides going through the records.

Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from arrest and custodial interrogation.

As informed by the State counsel petitioner Maan Singh is involved in another criminal case i.e. FIR No.145 dated 15.5.2020, under Sections 323, 324, 307, 148, 149, 120-B IPC (offence under Section 302 IPC added later on) registered with Police Station Sultanpur Lodhi, District Kapurthala.

Learned counsel for the petitioner has raised various arguments i.e. petitioner is not named in the FIR; he was not present at the spot at the time of the incident, rather he was in meeting with SSP, Kapurthala at the relevant time and no specific role has been attributed to him; the recovered weapons do not belong to the petitioner; in any way

his custodial interrogation is not necessary; he is ready and willing to cooperate in the investigation. According to learned counsel for the petitioner/accused, a false FIR has been registered against the petitioner on account of a property dispute pending adjudication on civil side, therefore, petitioner deserves to be granted pre-arrest bail.

Whereas, learned State counsel has opposed the request vehemently stating that the involvement of the petitioner in the incident was there; though he is not named in the FIR but after lodging of the FIR when the matter was investigated, the identities of the culprits were ascertained and their particulars were recorded in report No.18 dated 15.3.2020; petitioner is one of the persons whose involvement was found to be there in the incident. He further contended that several other persons are yet to be arrested and custodial interrogation of the petitioner in that regard is necessary and also to find out how the incident was planned and executed, he is to be interrogated with regard to origin and possession of recovered arms and ammunition.

After hearing the rival contentions, I find that the arguments advanced by learned counsel for the petitioner are not convincing. The FIR is not a substantive piece of evidence and its only purpose is to set the criminal machinery in motion. FIR is often lodged in hurry and it may not contain the minute and precise details of the incident. The FIR can be got registered by a person, who may not be an eye-witness of the same. It is only during investigation of the case that police can come to know about the culprit/criminal, who had committed the crime. Merely for the reason that accused is not named in the FIR does not result in causing any dent in

the prosecution story. The petitioner cannot take advantage of the fact that he is not named in the FIR.

As per the prosecution version after lodging of the FIR and recording of supplementary statement of complainant on 12.3.2020, the investigation revealed involvement of the culprits in the incident, petitioner being one of them.

With regard to the photographs placed on file purportedly showing petitioner in the company of SSP, Kapurthala at the relevant time, the authenticity of those photographs is yet to be established and at this stage the photographs cannot be accepted as such.

As regards no recovery etc. having been effected from the petitioner/accused, petitioner is yet to join investigation, therefore there could not be any question of any recovery having been effected from him or not. Rather a number of firearms along with ammunition have been recovered, the origin and ownership of which is yet to be ascertained.

The contention raised by learned counsel for the petitioner that he has been involved in this case on account of civil litigation is in the nature of plea taken in defence, which can be looked into by the trial Court during the trial and at this stage this Court is not to give any finding in that regard.

The incident of Nihang Singhs attacking the police officials as such public servants on duty need to be taken with all the seriousness. The complainant had suffered injuries in the incident. Such type of conduct cannot be taken lightly since if culprits indulging in assaulting public servants on duty are dealt with leniency, then the public servants

would get demoralized and disheartened, in the process affecting their efficiency and devotion to the duty sending a wrong signal in the society that one can use force against the public servants and get away very easily.

Furthermore, the custodial interrogation of the petitioner/accused is essential for complete and effective investigation. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called 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.

Finding no merits in the petition, the same stands dismissed accordingly.

It may be mentioned here that nothing discussed hereinabove shall have any bearing on the merits of the case.

3.3.2021
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(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No