

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

CRM-M-44250-2020(O&M)

Date of decision:-7.1.2021

Dinesh Chaudhary

...Petitioner

Versus

State of U.T., Chandigarh

...Respondent

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

Present: Mr.Sanjay Kaushal, Senior Advocate with
Ms.Shelly Arora, Advocate
for the petitioner.

Mr.A.M. Puncchi, Public Prosecutor and
Mr.Anupam Bansal, Addl. Public Prosecutor
for U.T., Chandigarh.

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 – Dinesh Chaudhary, aged about 20 years, resident of # 377, Kaimbwala, near Sampark Centre, Kaimbwala, Chandigarh, an accused in FIR No.109 dated 12.12.2020 for the offences under Sections 307, 34, 323, 324, 506 IPC and Section 25 and 27 of Arms Act, registered with Police Station P.S. North, Chandigarh.

Briefly stated, facts of the case as per the prosecution story, are that on 12.12.2020 at about 12:05 a.m., the complainant Pardeep Singh son of Bacchan Singh, resident of house near Krishan Temple, village Kaimbwala, U.T. Chandigarh, a student was returning home after

attending a marriage function in his village; when he had reached near house of his uncle Kirat Singh, then he saw three boys, namely, Sandeep Kumar, Rajesh Kumar and Bobby @ Dinesh Chaudhary (present petitioner) giving beatings to his uncles Kirat Singh and Hemraj; at that time Dinesh Chaudhary @ Bobby was armed with a gandasi, Rajesh Kumar with a *Kulhari*(axe); Dinesh Chaudhary @ Bobby had given a gandasi blow to Kirat Singh, causing him injury and Kirat Singh fell on the ground; when Hemraj came forward to pick up Kirat Singh, then Rajesh Kumar gave a *Kulhari* blow to him, hitting him on his head; the complainant Pardeep Singh intervened to save his uncles, then he was also attacked; in the meanwhile Sandeep Kumar alias Ranchoo having a pistol started firing shots therefrom but fortunately nobody was hit. All the three assailants had called Kirat Singh and Hemraj by making phone call to them and when the latter came out of their houses, then they attacked them as well as the complainant. On the basis of statement of complainant Pardeep Singh recorded with the police, formal FIR was registered.

Apprehending his arrest in this case, the present petitioner had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, which was assigned to learned Additional Sessions Judge, Chandigarh. However, his such request was declined by learned Additional Sessions Judge, Chandigarh vide order dated 23.12.2020. As such, the present petitioner has approached this Court asking for the similar relief, which request is being opposed by the counsel for U.T., Chandigarh.

I have heard learned counsel for the parties besides going

through the records.

Learned counsel for the petitioner has contended that the petitioner is of young age and a student. The injury attributed to him is simple in nature and he is ready to join the investigation and to cooperate therewith. Further, injured Kirat Singh himself is a hardened criminal with a number of FIRs having been registered against him. Therefore, the petitioner be granted concession of pre-arrest bail.

Whereas the request is being opposed by the State counsel vehemently.

After hearing the rival contentions and going through the record, I find that no case for grant of pre-arrest bail to the petitioner is made out.

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 custodial interrogation.

In this case the petitioner is specifically named in the FIR and is said to be armed with a gandasi at the relevant time. The injury attributed to him is with a gandasi. Though in the MLR of Kirat Singh, this injury is said to have been caused with blunt weapon but the very seat of the injury i.e. left side of occipital region and size of the injury being 5 x 1 cm is suggestive of intention of the assailant to cause serious injury to the victim. Though in the MLR, the injury is said to have been caused with a blunt weapon but then gandasi is a weapon having a sharp edge on one side and blunt on the other. From the FIR, it comes out that the injury

had been caused with a gandasi and it is quite possible that blow had been given from the reverse side of the gandasi, which is of blunt type. The attack was clearly premeditated and pre-planned since the assailants had made telephonic call(s) to Kirat Singh and Hemraj, in response of which both of them had come out and were assaulted by the petitioner and his co-accused. The incident is not shown to have taken place at spur of moment. The fact that it was result of pre-planning and premeditation makes the incident all the more grave and serious. One of the assailants namely Sandeep Kumar alias Ranchoo having a pistol is shown to have fired shots therefrom on the injured, though they escaped being hurt. That also points out towards intention of the accused to commit murder of the injured/victim. The petitioner being one of the assailants is to share criminal liability along with his co-assailants/accused and under the circumstances part played by each of the assailant is not to be considered individually but by taking overall view of the incident. The petitioner being of young age and a student does not make much difference when viewed in the context that he is involved in such type of incident in which injuries were caused on vital parts of the injured and firearm was used by one of the assailant, who had fired shots therefrom, obviously showing intention to kill the injured.

As far as the contention raised by learned counsel for the petitioner that Kirat Singh himself is a hardened criminal, may it be so, but then that does not justify the assault on him as well as his brother Hemraj and nephew Pardeep Singh.

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.

Custodial interrogation of the petitioner is definitely required to effect the recovery of the weapon used in the incident and to unfold the complete story as to how the incident was planned and executed. 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.

Thus finding no merit in the petition, the same stands dismissed.

7.1.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No