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

**CRM-M-6174-2022 (O&M)
Date of Decision: 14.02.2022**

Sukhchain Singh @ Bhujia

.. Petitioner**Vs.**

State of Punjab and another

.. Respondents**CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. A.P. Kaushal, Advocate for the petitioner.

...

Manoj Bajaj, J. (Oral)

Petitioner has filed this petition under Section 438 Code of Criminal Procedure for grant of anticipatory bail in a case FIR No.233 dated 07.08.2021, registered under Sections 323/325/307/148/149 IPC, 1860 and Sections 25/27/54/59 Arms Act at Police Station Sadar Mansa, District Mansa. The petitioner apprehends his arrest at the hands of Police, in the above FIR.

The FIR was registered on the statement of Jaswinder Singh and the allegations as noticed by the Id. Addl. Sessions Judge, Mansa in the order dated 03.01.2022 are as under:

“The present FIR has been lodged on the basis of statement given by Jaswinder Singh son of Ajaib Singh resident of Khiala Khurd in which he stated that his father has four brothers namely Nirbhey Singh, Naib Singh, Ajaib Singh and Harbans Singh. They are having a joint land measuring 12 acres at Atari Wala field. His uncle Naib Singh used to give his land on lease basis and remaining land was being cultivated by them. There are two tube-wells, one of Rajinder Singh is of Khokharwala Naib Singh. The water of aforesaid tube-well/motor was used by Mandeep Singh alias Gaggi son of Nirbhey Singh. On 06.08.2021, his uncle Harbans Singh irrigated his fields from the water taken from motor of Namdhari. Thereafter, they started irrigating their land from motor of Namdhari. In the meantime, Mandeep Singh alias

Gagi armed with gandasa, Gurjit Singh armed with licensed revolver, and Nirbhey Singh armed with Barchha (spear) came at the spot. There were 8/9 unknown persons with them. It was at about 5.00 am. His father Ajaib Singh and uncle Naib Singh were already present in the fields. His uncle Nirbhey Singh raised lalkara to teach them a lesson for using the water from the motor of Namdhari. Gurjit Singh Gurjit Singh alias Kala fired a shot from his revolver indiscriminating with intention to kill them. The shot of the revolver landed at the stomach left arm of Ajaib Singh and due to this, he fell down on the ground. Thereafter, Gurjit Singh again fired revolver shot pointed towards the complainant which inflicted in the left leg. Thereafter, Mandeep Singh alias Gaggi gave gandasa blow on the person of complainant which landed on the head of the complainant. Nirbhey Singh gave Barchha (spear) blow on the right arm of the complainant. They raised alarm of 'Marta Marta'. In the meantime, Naib Singh and other persons came to rescue them. Then Mandeep Singh alias Gaggi inflicted a gandasa blow on his uncle Naib Singh and to ward off the aforesaid blow, Naib Singh raised his left hand which landed on the fingers of his left hand. Naib Singh fell down on the ground. Nirbhey Singh gave refer side of Barchha (spear) on his back and thereafter, accused persons fled away from the spot. Thereafter, applicant/accused was nominated in this case on the basis of supplementary statement of complainant Jaswinder Singh in which he stated that applicant/accused was one of the person out of the aforesaid 8/9 unknown persons. Apprehending his arrest applicant/accused filed present application for anticipatory bail."

Learned counsel has argued that the alleged occurrence took place in the fields of complainant Jaswinder Singh s/o Ajiab Singh and the accused persons are his close relatives. According to him, the parties were having dispute over a water course and as per allegations in the FIR, four accused persons, namely, Mandeep Singh @ Gaggi, Nirbhay Singh, Naib Singh and Gurjeet Singh @ Kaka opened the attack upon Jaswinder Singh and his father Ajiab Singh. He argued that as per allegations, it was co-accused Gurjeet Singh @ Kaka, who opened firing and caused gunshot injuries to both the injured and when they fell down, the other assailants caused other injuries with their respective weapons. He submits that the petitioner is neither named in the FIR nor any specific role is attributed to

him, who has been falsely implicated being employee of accused and was engaged to work in their agricultural fields, therefore, his custodial interrogation may not be necessary. He prays for anticipatory bail.

After hearing the learned counsel and considering the nature of offences, this Court is of the opinion that merely because the name of the petitioner is not contained in the FIR, who is admittedly working as labourer in the fields of the accused, wherein the alleged occurrence took place, at this stage, it cannot be said that he is not involved in the alleged crime. It is the categoric case of the prosecution that four accused persons, who were named in the FIR were accompanied by other 8-9 unknown persons and the petitioner being the alleged member of unlawful assembly, this Court does not deem it to be a fit case for extending the extra ordinary concession of pre arrest bail, as his custodial interrogation may be necessary.

Consequently, without commenting upon the merits of this case, the petition is dismissed.

14.02.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes No
Yes No