

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

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**CRM-M-11063-2021 (O&M).
Date of Decision: 07.01.2022.**

Harmanjit Singh

....Petitioner.

Versus

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Inderpal Singh, Advocate for petitioner.

Mr. Anmol Singh Sandhu, Assistant Advocate General, Punjab.

Mr. Sandeep Arora, Advocate for complainant.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video Conferencing.

This petition under Section 438 Cr.P.C. has been moved by petitioner-**Harmanjit Singh** for grant of pre-arrest bail in case FIR No.139 dated 22.12.2020 under Sections 148, 427, 447 and 506 IPC read with Section 149 IPC and Section 25 of Arms Act, registered at Police Station Chohla Sahib, District Tarn Taran.

Learned counsel for the petitioner *inter alia* contends that allegations levelled in the FIR are totally concocted, false and frivolous and there is no iota of truth therein. He further urges that allegedly on 12.11.2017 petitioner alongwith co-accused while armed with deadly weapons committed trespass into the school ground, damaged the poles affixed in the ground with the tractor, caused damage to the fencing grills, ploughed the school ground and further manhandled the security guard of

the school, whereas above said allegations have no footing to stand. He further urges that as a matter of fact, land dispute is going on between complainant-Gulwinder Singh and co-accused Nishan Singh. He further urges that even otherwise no specific role has been attributed to the petitioner in the commission of alleged offence. He further submits that nothing incriminating is to be recovered at the instance of petitioner. He further urges that in case FIR No.43 dated 03.05.2012 under Sections 120-B, 420, 427 and 447 IPC, Police Station Chohla Sahib, District Tarn Taran, petitioner has already been acquitted on 02.09.2015. He further submits that though petitioner has no nexus whatsoever with the alleged offence, he is ready to join investigation as and when called upon to do so by the Investigating Agency, thus, concession of pre-arrest bail may be extended to him.

On the other hand, learned State counsel while opposing the cause of petitioner has vehemently argued that on 12.11.2017 petitioner alongwith co-accused while armed with deadly weapons (rifles and *Kirpans*) constituted an unlawful assembly and in prosecution of common object of said assembly committed trespass into the school ground, damaged poles affixed in the ground with the tractor, caused damage to the fencing grills, ploughed the school ground and further manhandled the security guard of the school. He further urges that prior to above incident, on 08.11.2017 petitioner alongwith co-accused while armed with deadly weapons committed trespass into the school building and ploughed the land of the school and further caused injuries to the officials of the school. He further urges that even after presentation of complaint, on 02.03.2018 threat

was extended to the complainant-Gulwinder Singh that in case he did not withdraw the case filed regarding the school ground, his family would be eliminated and further damage was caused to the windowpanes of the security room of the school and further one of the assailants had even attempted to kill Santokh Singh. He further urges that above said incidents were captured in the CCTV camera installed in the school. He further urges that petitioner while armed with deadly weapon (double barrel gun) had played active role in the commission of offence. He further urges that petitioner is habitual offender as apart from instant case FIR, two more FIRs were registered against him i.e. FIR No.82 dated 02.06.2008 under Sections 379, 382 and 426 IPC, Police Station Jhabal and FIR No.43 dated 03.05.2012 under Sections 120-B, 420, 427 and 447 IPC, Police Station Chohla Sahib. He further submits that in view of nature of offence committed by the petitioner, his custodial interrogation is required to unveil the truth as well as to effect recovery of weapon of offence and as such he is not entitled to the concession of pre-arrest bail.

I have heard learned counsel for the parties and have carefully gone through the record of the case.

Without commenting anything on the merits of the case, lest it may prejudice the case of either of the parties, allegedly on 08.11.2017, 12.11.2017 and 02.03.2018 petitioner alongwith co-accused while armed with deadly weapons constituted an unlawful assembly and in prosecution of common object of said assembly committed trespass into the school ground, damaged the poles affixed in the ground with the tractor, caused damage to the fencing grills, ploughed the school ground and further

Pre-arrest bail is not to be granted as a matter of routine/course in all cases. The grant or refusal of such bail depends on the variety of circumstances, the cumulative effect of which, should enter the judicial verdict. The power under Section 438 Cr.P.C. is to be exercised sparingly and in exceptional cases keeping into focus the facts and circumstances of each case. At the same time, it is well-settled that the order of anticipatory bail cannot be allowed to circumvent normal procedure of arrest and investigation by the police. The Court has also to see that the investigation is in the province of the police and an order of anticipatory bail should not operate as an in-road into the statutory investigational powers of the police, in exercising the judicial discretion in granting the anticipatory bail. The Court should not be unmindful of the difficulties likely to be faced by the Investigating Agency and the public interest likely to be affected thereby in this relevant connection. In a given situation, custodial interrogation of petitioner is certainly required for complete and effective investigation. In case, same is denied to the Investigating Agency that shall leave many glaring loopholes and gaps, adversely affecting investigation, which is uncalled for. Keeping in view totality of entire scenario and nature of offence, no extra-ordinary ground has been made out in favour of petitioner for his entitlement to pre-arrest bail.

As a sequel to above, instant petition for grant of pre-arrest bail moved by the petitioner is dismissed.

(LALIT BATRA)
JUDGE

07.01.2022

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