

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

CRM-M No. 55875 of 2022

Date of decision : December 7, 2022

Surta Singh and another

..... Petitioners

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :-Mr. Amit Arora, Advocate
for the petitioners.

Mr. S. S. Cheema, DAG., Punjab.

PANKAJ JAIN, J. (ORAL)

Apprehending their arrest in FIR No.0156 dated 7.11.2022, registered for offences punishable under Sections 323,353,186,332, 379-B, 342,506,148,149 IPC, 1860 registered at Police Station Verowal, District Taran Taran, the petitioners have preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

As per allegations levelled in the FIR the case of the prosecution is that:-

“It is stated that I am resident of above mentioned address and is posted as Computer Teacher in Government School at Miawind and used to perform

the temporary duty for two days of week Wednesday and Thursday at
ARCHANA ARORA
2022.12.08 16:14
I attest to the accuracy and
integrity of this document

Village Alowal and for two days a week Friday and Saturday at village Sakianwali Government School. Today on 04.11.2022, Friday, time 09:00 AM I have gone to my duty at Government School Sakianwali and since the teacher Staff of Middle Schoool Sakianwali was on leave as such I was alone present in the school and teacher Raminder Kaur of Primary school and Manjeet Kaur, Cook of Mid day meal were present and we have taken the classes of the students till 5th period and during the half day break at 12:30 PM we were served the meal to the students and thereafter I have taken the students to the ground. The some other persons from the village were present in the ground of the school and 1-2 days ago the villagers have organized some function in the ground and after the function on dated 04.11.2022, the persons from the village were collecting the tent house material from the ground and the boys of the school were playing in the ground and girls were sitting on the one side and then Lakhbir Singh son of Sarabjeet Singh, Sarabjeet Singh son of unknown, Surta Singh son of unknown, Diwan Singh son of Unknown, Harshdep Singh alias Harsh son of Sarabjeet Singh residents of Sakianwali came to the ground and Lakhbir Singh went near to the girls and the girls after coming to me complained that Lakhbir Singh above said is causing illegal harassment to them and on the information given by the girls I stopped Lakhbir Singh above said from doing the same and he started arguing with me. Thereafter Lakhbir Singh armed with the stick of the ladder, Sarabjeet Singh above said armed with Stick, Surta Singh above said armed with Dang, Diwan Singh above said armed with Baseball Bat, Harshdeep Singh alias Harsh above said armed with Baseball bat and 5/6 unidentified persons armed with weapons came towards me and on reaching Sarabjeet Singh above said raised lalkara that let us catch of hold Master today and teach him a lesson for arguing with my son. That Lakhbir Singh above said gave blow with stick of the ladder

upon me which hit on the left side of my head thereafter Sarabjeet Singh above said gave stick blow upon me which hit on my shoulder and Surta Singh, above said gave stick blow upon me which hit on the left bicep and thereafter Sarabjeet Singh gave stick blow upon me which hit on the left side of my back and thereafter Diwan Singh above said gave baseball bat upon me which hit on right side of my back and thereafter Lakhbir Singh above said gave stick blow upon me which hit on the left side of my stomach and thereafter, Harshdeep Singh gave baseball bat blow upon me which hit on my left elbow. I after getting myself free from their clutches got myself saved and raised hue and cry and entered inside the room of the school after running and tried to lock the door from the inside but all of these persons by pushing the door opened it and got hold of me from my neck and dragged me outside the room. Lakhbir Singh dragged me from my shirt and broke the buttons of my shirt and also snatched the silver chain from my neck and thereafter Sarabjeet Singh forcibly took out my mobile phone make VIVO light blue in colour from my pocket having SIM No. 8283840122 and after injuring me got me locked inside the room of the school. While I was locked inside the room I raised hue and cry and then on seeing the public gathering near the school all the aforesaid accused persons while giving threatening to me ran away from the spot along with their respective weapons. Teacher Kushpreet Singh who was present at the spot took out in the injured condition from the room and after arranging the vehicle got me admitted to Civil Hospital Miawind where I am under treatment. That the respectable persons were trying to get matter compromised between us but the same could not be affected. Thus, the statement has been recorded before you, action may kindly be taken.”

Learned counsel for the petitioner submits that it was the complainant who

Keeping in view the age of the petitioners, they are entitled for pre-arrest bail. He further submits that even the accused side have also suffered injuries and there is a delay of three days in lodging the FIR.

Per contra, Mr. S.S. Cheema, DAG., Punjab submits that the parties were medico legally examined and the allegations with respect to the complainant being under the influence of liquor are against the records. He further submits that conduct of the petitioners dis-entitle them from the grant of pre-arrest bail. The allegations against the petitioners are of having entered in the School premises and misbehaved with the students.

I have heard Learned counsel for the parties and have gone through the records of the case.

Keeping in view the seriousness of the allegations levelled against the petitioners and their conduct, they are not entitled for grant of pre-arrest bail.

As per settled law petitioner is required to make out a special case for invoking jurisdiction under Section 438 Cr.P.C. In **Gurbaksh Singh Sibbia Vs.**

State of Punjab, 1980(2) SCC 565, Apex Court has held that :-

“..That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court

while granting or rejecting anticipatory bail. The nature and

seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the State" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail....”

Keeping in view the seriousness of the allegations levelled in the FIR and the fact that the investigation is at a nascent stage and the same cannot be derailed and belayed at this stage by granting relief of pre-arrest bail to the petitioner. No ground for grant of anticipatory bail is made out.

Consequently, the present petition stands dismissed.

Needless to say nothing recorded hereinabove should be construed as an expression on merits of the case.

(PANKAJ JAIN)
JUDGE

December 7, 2022
archana

Whether speaking/reasoned	Yes
Whether Reportable :	No