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

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CRM-M-30289-2023

Date of decision : 05.07.2023

Vikram Barala

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. S.S. Mor, Advocate
for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

Mr. Mohan Singla, Advocate
for the complainant.

PANKAJ JAIN, J. (Oral)

Prayer is for grant of pre-arrest bail in FIR No.106 dated 06.05.2023, registered for the offences punishable under Sections 147, 148, 149, 452, 323, 384, 387, 307 and 506 of IPC at Police Station Sadar Tohana, District Fatehabad.

2. As per the allegations levelled in the FIR, it has been alleged as under:-

“Statement of Vikas aged 30 years, S/o Sh. Dibag Singh S/o Chandgi Ram, R/o Dangra, Mob. No.9991274389, stated that I am resident of abovementioned address and I am a contractor and used to construct building and roads. I have set up a factory of block bricks in the name & style of J.S. Enterprises situated at Ratia Road, near Village Jamalpur Sheikhan. Yesterday, we and my father

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Dilbag Singh reached at our factory at about 9:00 am. At about 12.50 pm, I received a whatsapp call from cell phone No.9306484788 of Vicky Barala S/o unknown, R/o Dangra on my cell phone No.9991274389. He said I am Vicky Barala speaking, on this I asked him to speak. On which he said that he should take back tender of Central Bridge of Municipal Corporation, Tohana. On which I said that time to withdraw tender has been over as it was only till 04.05.2023, on which he said that if he does not take tender back, then give him Rs 20 Lac, otherwise he would kill him. On this, I said that I am not in position to pay Rs.20 Lac, but Vicky Barala said that now he would teach a lesson to him of not taking tender back and not giving Rs.20 Lac, after coming to factory. After 15 minutes, on two motorcycles three on each came inside our block factory. Vicky Barala S/o unknown and Bablu S/o Satpal and 4 other unknown persons, to whom I can identify if brought before me. Just after reaching, they all opened attack upon me after picking Kassi, Balche and Chairs etc. from the factory itself. They attacked on me with intention to kill me. Out of them one unknown boy caught hold my father and the assailants also caused injuries to him with intention to me, due to I fell down on the ground and thereafter, assailants fled away on their motorcycle considering me as dead, after throwing weapons at the spot. Thereafter, my father got me admitted at Civil Hospital, Tohana after arranging a vehicle, from where I am referred to MAMC Agroha, but my family members got me admitted in RMC Hospital, Tohana. You are hereby requested to take strict legal action against the assailants. I got

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recorded my statement, heard and understand, which is correct. Sd/-.”

3. Status report by way of affidavit of Sanjay Kumar, HPS, Deputy Superintendent of Police, Fatehabad, District Fatehabad has been filed on behalf of the respondent-State. The same is taken on record. The medical legal report analyse 18 injuries found on the person of victim which are as under:-

S.No.	Injuries	Marked	Injury Number
1	LACERATED WOUND 1CM X 0.2CM BELOW RIGHT EYE LATERAL END. ADV:- OPHTHALMOLOGY AND SURGEON OPINION	No	1
2	LACERATED WOUND 2CM X 0.3CM BELOW RIGHT EYE MEDIAL END. ADV:- OPHTHALMOLOGY AND SURGEON OPINION	No	2
3	C/O PAIN AND ABRASION OF SIZE 1CM X 1CM PRESENT ON DORSUM OF NOSE. ADV:- ENT OPINION	No	3
4	LACERATED WOUND OF SIZE ABOUT 3CM X 1CM ON INNER SURFACE LOWER LIP ADV:- SURGEON OPINION	No	4
5	C/O PAIN AND SWELLING RIGHT HAND AT 2ND AND 3RD METACARPO PHALANGEAL JOINT. ADV:- X-RAY RIGHT HAND AND ORTHO OPINION	No	5
6	ABRASION OF SIZE 1CM X 0.3CM ON DORSAL ASPECT PROXIMAL PHALANX OF MIDDLE FINGER OF RIGHT HAND. ADV:- X-RAY RIGHT HAND, ORTHO OPINION.	No	6
7	ABRASION OF SIZE 0.5CM X 0.5CM ON RIGHT FOREARM LATERAL ASPECT. ADV:- X-RAY RIGHT FOREMAN, ORTHO OPINION	No	7
8	C/O PAIN, SWELLING AND ABRASION OF SIZE 0.5CM X 0.5CM ON POSTERIOR ASPECT LEFT LOWER LEG. ADV:- ORTHO OPINION.	No	8
9	C/O PAIN AND REDNESS PRESENT ON POSTERIOR ASPECT NECK OCCIPITAL AREA. ADV:- SURGEON OPINION.	No	9
10	ABRASION OF SIZE 3CM X 2CM OVER POSTERIOR ASPECT LEFT UPPER ARM. ADV:- SURGEON OPINION	No	10
11	ABRASION OF SIZE 4CM X 0.5CM ON POSTERIOR ASPECT OF RIGHT SHOULDER ADV:- SURGEON OPINION	No	11
12	MULTIPLE MINOR ABRASIONS IN AREA ABOUT 15CM X 15CM ON POSTERIOR ASPECT RIGHT SHOULDER, SURROUNDING AREA REDNESS PRESENT. ADV:- ORTHO AND SURGEON OPINION	No	12
13	BRUISE MARK OF 2 PARALLEL LINES, REDDISH COLOURED PRESENT ON POSTERIOR ASPECT LEFT SHOULDER. ADV:- ORTHO AND SURGEON OPINION	No	13

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14	C/O PAIN ABDOMEN LEFT SIDED. NO EXTERNAL INJURY SEEN. ADV:- USG AND SURGEON OPINION.	No	14
15	C/O PAIN IN THORACOLUMBAR REGION IN THE BACK SURROUNDING AREA REDNESS PRESENT. ADV:- ORTHO AND SURGEON OPINION.	No	15
16	ABRASION SIZE 5CM X 0.2CM OVER POSTERIOR LEFT SHOULDER. ADV:- ORTHO AND SURGEON OPINION.	No	16
17	C/O PAIN B/L KNEES. NO EXTERNAL INJURY SEEN. ORTHO OPINION.	No	17
18	C/O PAIN AT B/L HIP JOINT. NO EXTERNAL INJURY SEEN. ADV:- ORTHO OPINION.	No	18

4. Counsel for the petitioner has invited attention of this Court to Annexure R-2, i.e. the medical opinion to submit that only injuries No.5 and 6 have been opined to be grievous and that too not dangerous to life, thus the offence under Section 307 would not be made out and no motive can be attributed to the petitioner in view of the fact that he was neither a licensee nor an applicant to tender. Counsel further submits that no mobile or motorcycle of the petitioner was involved.

5. Per contra, counsel for the complainant as well as State counsel would submit that offence punishable under Section 307 does not require that the injury should be dangerous to life and intend to kill in itself would constitute offence punishable under Section 307 and further rely upon the still photographs of the CCTV footage to contend that so far as the involvement of the petitioner is concerned, the same cannot be disputed by him in view of the CCTV footage.

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

7. Counsel for the respondents are right to contend that there is no legal requirement that the injury should be necessarily dangerous to life to constitute offence punishable under Section 307 IPC, intend to

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kill can be gauged from receipt of the injury and the weapon.

8. Without commenting anything upon the veracity of photographs appended as R-3, it is evident that the victim is assaulted with kassi, iron rods etc.

9. In the considered opinion of this Court, it is not a case to exercise discretionary jurisdiction vested with this Court under Section 438 Cr.P.C. The investigation cannot be stalled and belayed at this stage. 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....”

10. Likewise while reiterating the law laid down in **Gurbaksh Singh Sibbia's case (supra)**, Apex Court in **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, 2020 (5) SCC 1** held

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that:-

“(4) Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it.”

10. In view of the above, this Court does not find any ground to grant pre-arrest bail to the petitioner. Consequently, the present petition is dismissed.

(PANKAJ JAIN)
JUDGE

05.07.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No