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

CRM-M-36394-2023

Date of decision : 28.07.2023

Subhash Singh and another

..... Petitioners

versus

State of Punjab

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Tarun Sharma, Advocate
for the petitioners.

PANKAJ JAIN, J. (Oral)

Prayer is for grant or pre-arrest bail to the petitioners in FIR No.0125 dated 05.07.2023, registered for the offences punishable under Sections 332, 353, 186, 224, 225, 427, 506, 148 and 149 of IPC, 1860, at Police Station Guru Harsahai, District Ferozepur.

2. As per the allegations levelled in the FIR on the statement of ASI Surinder Kumar, it has been alleged as under:-

Stated that I am posted at Police Post Anaj Mandi Police Station City Kaithal in FIR No.460 dated 27.08.2022 u/s 406, 420 Indian Penal Code, Police Station City Kaithal, I am the investigating officer. On 05.07.2023 I alongwith ASI Kuldeep Singh No. 23/KTL, Sepoy Krishan Kumar No. 532/KTL alongwith Amit son of Arun resident of Ram Nagar, District Kaithal Haryana who is the brother of the complainant in the above stated FIR. For identification of the accused we had taken him alongwith us in vehicle No. HR-08-AD-0455 make Ertiga. The said car was driven by Rinku son of

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Arun Kumar resident of Kaithal. For the investigation of afore stated FIR, we had gone to Punjab at Police Station Guru Harsahai. We recorded the report of our arrival at Police Station Guru Harshai and had informed the local police. PHG Kuldeep Singh No. 5442 had accompanied us as our guide. Thereafter in search of accused, we had gone to his house at village Rana Panj Garai. When we raided the house of accused Sachin son of Om Parkash resident of Rana Panj Garai, they did not opened the door of the house. Then with the help of Panchayati members we were successful in entering their house. Then accused Sachin son of Om Parkash resident of Rana Panj Garai was identified by Amit Kumar, brother of the complainant. On seeing the police party, accused Sachin went on the roof of his house and in order to escape, he tried to jump from the roof but I with the help of other official apprehended him. But 15-20 men women, who were armed dangs/sottas suddenly came there and surrounded our vehicle. Then Balkar Singh, Om Parkash, Kulwant Singh son of Mohinder Singh, Surit Singh son of Hansa Singh, Kala Singh son of Malla Singh, Major Singh son of Bagicha Singh, Subhash Singh son of Kala Sngh, Sukhwinder Singh son of Jagdish Singh, Santosh wife of Om Parkash residents of Rana Panj Garai alongwith 10-15 men-women, whom I can identified on seeing. Then they attacked us with dangs/sotties and started throwing brick bats upon us. For quite some time they kept us confined in our car and due to throwing of brick bats I received injuries on my left hand and left arm biceps and forehead. ASI Kuldeep Singh No. 23/Kaithal

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received injuries on testicles and left hand, left knee, right hand and right arm. Driver Rinku son of Anil Kumar resident of Kaithal and Arun Kumar also received injuries. The crowd threatened us and rescued Sachin son of Om Parkash resident of Rana Panj Garai from our custody. As there are numbers of people gathered there, I alongwith people accompanying who were injured with the help of panchayati members left the spot in our car and got admitted in civil hospital Gurusahai where we were treated by the doctors. As the above said accused have surrounded us and confined us, attacked us with dangs/sotas and brick bats and inflicted injuries upon us and rescued the accused Sachin son of Om Parkash resident of Rana Panj Garai from our custody, they have interfered in our official duty and damaged the car.”

3. Keeping in view the aforesaid contents of the FIR, petitioners are alleged to have attacked police party and given injuries by brickbats and dangs.

4. As per settled law petitioner is required to make out a 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

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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...."

6 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 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.”

7. Keeping in view the seriousness of the allegations levelled against the petitioners and the fact that arrest of an accused was resisted, this Court does not find that it is not a fit case for grant of pre-arrest bail and the same is hereby dismissed.

(PANKAJ JAIN)
JUDGE

28.07.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No