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

CRM-M-46318-2023 (O&M)

Date of decision : 18.10.2023

Gagandeep Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Shivam Sharma, Advocate for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

Mr. J.S. Bhinder, Advocate for the complainant.

PANKAJ JAIN, J. (ORAL)

Apprehending his arrest in FIR No.0118 dated 17th of May, 2023, registered for offences punishable under Sections 379-B(2), 325, 323, 341, 148, 149 of the Indian Penal Code, 1860 at Police Station Patran, District Patiala, the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

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

“xxxx It has been stated that I resident of the above mentioned address and working at Toll Plaza of Village Paid Police Station Satrana as a worker. Apart from me another 30-40 workersalso worked at toll plaza. Our shift is of 8/8 hours, on dated 14.05.23 my shift start from 4 PM till 12-00 AM at night. During my shift Lakhvir Singh Lakhi, Karanvir Singh were also present there. When our shift was over, Lakhvir Singh and Karnvir Singh

had gone to their Village on motorcycle. It took some time to deposit the Toll money, otherwise we all go together, after depositing the money I was going back to my village Ladbanjara Kalan on motorcycle bearing No. PB 13 BB 6121 Model Platina, Color Black, when I passed from village Dugal and reached to my village road near gate of Vishal Food on midnight of 14/15.05.2023 at around 12-30 AM in the night. Then suddenly a Swift car colour white whose number cannot read by me, but I saw only HR number was there, from which three persons came down and thereafter by stopping the car along with driver other three persons came out who were holding Gandasa, sticks and Talwarand they surrounded me. One person hit me on the back of my head with stick due to which I fell down from my bike and when I tried to look back another person hit me with stick on my forehead above the right eye, I recognized the attacker whose name was Jaspreet Singh @ Jassi resident of Ghorenab, to whom I said why are you killing me and I started saying "Marta Marta" thereafter, there was another person in whose hand there was a sword, to whom I also identified as Arshdeep Singh @ Arsh resident of Hansdair alongwith him Gagandeep Singh alias Gagan resident of Mansa, I could not identify the other three persons. I was asking for help, then Arshdeep who held the sword in his hand attacked towards my head, so in order to save I put both my hands forward to protect myself, then the sword hit upon my hands, due to which the middle finger of my right hand was broken and both hands were injured, and thereafter Gandasa caught by Gagandeep Singh in his hand was hit upon my legs with which my left leg was broken from below the knee and above the ankle and immediately after that one unknown person hit four to five times upon my legs with gandassa and two more unknown persons also hit me by lathis upon my back and legs, one of them was saying to shoot, after that Gagandeep Singh and Arshdeep Singh started taking out my purse from my pocket, when I tried to stop them from taking out my purse, they snatched it away from me and from the spot they got into the Swift car with their weapons and left, I had my Aadhar card and about 9 thousand rupees in my purse. then I got unconscious, I don't know who told my family, then today I came

to know that my brother arranged a vehicle for my treatment at Bhagwan Health Care Centre Patran and got admitted. I was not in conscious for two days, today I came to know that after surgery conducted by the Doctor on my left leg, a plate has been implanted in it and a wire has been inserted in the middle finger of my right hand and today I have come to my senses, I got recorded my statement to you in the presence of my grandfather Shyam Lal son of Jagannath, after reading and listening to it, legal action should be taken against the above mentioned accused. Sd/- Baljinder Sharma also verified by LTI Shyam Lal that it is correct.”

3. I have heard counsel for the parties and have gone through records of the case.
4. Role of the petitioner has come in the short reply file by way of affidavit of Daljit Singh Virk, PPS, DSP, Sub Division Patran, dated 26th of September, 2023 wherein it has been found that the injury attributed to the petitioner has been found to be grievous.
5. 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 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....”

(emphasis supplied)

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. In view of the seriousness of the allegations levelled against the petitioner, this Court does not find it to be a fit case for grant of pre-arrest of anticipatory bail to the petitioner.

8. Accordingly, the petition is dismissed.

October 18, 2023
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No