

102

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

CRM-M-51889-2023
Date of decision : 19.10.2023

MANJEET KAUR SARPANCH AND OTHERSPetitioners

Versus

STATE OF PUNJAB ...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Karanjeet S. Brar, Advocate
for the petitioners.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

PANKAJ JAIN, J. (ORAL)

Apprehending his arrest in FIR No.171, dated 7th of September, 2023, registered for offences punishable under Sections 353, 342, 341, 186, 149, 225 of the Indian Penal Code, 1860 at Police Station Sadar Fazilka, District Fazilka, the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

2. As per the contents of the FIR it has been alleged as under :

“Statement of S/C Paramjit Singh No. 1206/ FZK, son of Harbhajan Singh resident of Lamochar Khurd, Tehsil and district Fazilka mobile NO. 94633-48987. I would like to state that I am posted at Police Post Ladhika Mandi, Police Station Sadar Fazilka. Today at about 11.00 AM, I along with ASI Balkar Singh No. 215/Fazilka along with police party on government car bearing registration No. PB05-R-9894 were present in village Lakhey Key Uttar for the search of accused Tiger son of Jarnail Singh resident of Lakhey Ke Uttar etc. regarding investigation of FIR NO. 170

dated 07.09.2023 under section 307, 506, 324, 323,148,149 of IPC, Police Station Sadar Fazilka and the above said accused Tiger etc. were being searching in the village and his house, then after informing accused Tiger above said by the facts of above said case, inquiry was being conducted from him then above said accused Tiger has raised hue and cry and called the residents of village there and started saying to the police party in the presence of public that encircle the police officials and their vehicles, let's give them taste to come to our village. Therefore the said public got annoyed and encircled us and started interfering in our duty. Earlier also I remained posted in Police Post Ladhuka and presently also posted in Police Post from some time therefore I know the residents of village Lakhey Key Uttar, I have identified the persons present in the crowd as Dalbir Singh son of Bahadar Singh, Makhan Singh son of Bashir singh, Sukhchain Singh son of Amrik Singh, Des Raj son of Bashir Singh, Madan Singh son of Jarnail Singh, Raju Singh son of Karnail Singh karnail Singh son of Jangir Singh residents of Lakhey Key Utar and I also identified the ladies with them as I use to village Lakhey Key Uttar from Mandi Ladhuka, their names are Pushpa Rani wife of Nirmal Singh, Priyanka daughter of Jarnail Singh, Rano Bai wife of Karnail Singh, Manjit Kaur Sarpanch wife of Des Raj son of Basirh Singh, Shimla Rani wife of Manjit Singh and 8-10 unknown ladies and men of the village were also with them, I tried to make them understood one by one that why you are interfering in our government duties and you have illegally encircled us by openly interfering in our government duties and on asking of accused Tiger etc. apprehended by the police for inquiry, you are openly taking law in your hands but they all, in connivance to each other, had attacked to us and they had snatched the shift of my uniform and broken the button of my shirt and altercated to us. They all, while altercating to us and making interruption in our government duty, had helped accused Tiger from there who was apprehended by us for inquiry of above said case. They started altercating with us and in the mean time, on calling of more police force and looking the police vehicles coming towards the village, all the above said persons ran away in the village. Legal action be

taken against them. ”

3. Counsel for the petitioners submits that petitioner No.1 being Sarpanch of village only tried to make police party understand not to harass the parents of Tiger, who is stated to be accused in FIR No.170, dated 7th of September, 2023. Neither the petitioners have caused any injury to the police officials nor any recovery is to be effected from them. He further submits that out of political vendetta the present FIR has been lodged against the petitioners. Thus, the petitioner be granted concession of anticipatory bail.

3. Status report by way of affidavit of Shubeg Singh, PPS, DSP, Sub-Divison Fazilka, Distt. Fazilka on behalf of respondent No.1-State has been filed today in Court, which is taken on record. As per the same it has been stated as under :

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(ii) The police team headed by ASI Balkar Chand (which also included Paramjit Singh No.1206/FZK, P.P. Ladhuka Mandi, P.S. Sadar Fazila) went to Village Lakhe Ke Uttar, Tehsil Fazilka to arrest the accused of the abovesaid FIR No.170 dated 07.09.2023 u/s 307, 506, 324, 323, 148, 149 IPC P.S. Sadar Fazilka. When the police team raided the house of Tiger (one of the accused of the said FIR) in order to arrest him, the accused of the FIR in question restrained the police team and assaulted the police team and deterred them from discharging their official duties.

(iii) While the petitioners are absconding, the remaining accused are now on bail.

(iv) During the investigation conducted so far, the incriminating evidence has come on file against all the accused including the petitioners. All the accused of the FIR in question

and the said Tiger of the above said FIR No.170 dated 07.09.2023 are of the same village. During the investigation, it has been found that the petitioners and co-accused caused hindrance in the discharging the official duties by the police team for arresting the said Tiger who was required by the police in FIR No.170 dated 07.09.2023. In this way, the accused committed the offences of the FIR in question and the crime committed by the petitioners and co-accused is of grave nature.”

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

5. As per settled law laid down by Apex Court in **Gurbaksh Singh Sibbia vs. State of Punjab, 1980 (2) SCC 565**, reiterated in **Sushila Aggarwal and others Vs. State (NCT of Delhi) and another, 2020 (5) SCC 1** the Court while considering his prayer for pre-arrest bail has to consider as to whether the accusation appears to be actuated by mala fides, nature of seriousness of the proposed charges, the role attributed to the applicant and the probabilities of securing presence of the applicant during the course of trial and as to whether there is any apprehension that the applicant will tamper with the witnesses or evidence.

6. It is the aforesaid considerations which need to be balanced by the Courts while considering grant of pre-arrest bail.

7. When present case is viewed from the prism of afore-stated considerations, this Court finds that there is nothing on record to show that the allegations levelled against the petitioners are motivated. There are serious allegations of obstructing the police officials from arresting an

offender. While causing obstruction they manhandled the police party. The petitioners have been assigned role of having actively participated in the occurrence.

8. In view of above, this Court does not find it to be a case for grant of pre-arrest bail.
8. Accordingly, the petition is dismissed.

October 19, 2023	(Pankaj Jain)
Dpr	Judge
Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No