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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-57604-2023 (O&M)

Date of Decision: 16.11.2023

Istikar

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Parminder Singh, Advocate
for the petitioners.

Mr. Gaurav Bansal, D.A.G., Haryana.

PANKAJ JAIN, J. (ORAL)

This is a second petition praying for grant of pre-arrest bail in FIR No.396 dated 07.10.2021 registered for offence punishable under Sections 148, 149, 323, 324, 506 IPC (later on added Sections 325 & 201 IPC and Section 307 IPC deleted) at Police Station Kunjpura, District Karnal.

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

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Copy of writing attached. To the SHO Sahib Police Station Kunjpura Sir, Requested that I Taro Devi wife of Jai Singh is resident of Village Taprana and doing the work of agriculture. Today dated 06 10.2021 time about 1:00 I was doing the work

in my field. I have taken the land on lease (Tekha) in village Mojabhadi in Murabba No.45 from Abdul Aziz @ Leela son of Niyaju. Then Sarukh s/o Yunus, Salamu son of Wazir, Aasu son of Yunus, Jahid s/o Nifa, Adil s/o Sajid, Kura s/o Surta, residents of Bhadi, District Shamli Police Station Jhinhana UP and 8-10 other boys started abusing me with sister and mother and started beating. In the neighbour Ram Karan s/o Amar Singh and Jagtar Singh came to rescue me. Aasu s/o Yunus raised lalkara that kill them then Jahid gave lath blow having in his hand to Ram Karan with an intention to kill and Ram Karan raised his hand to save himself and his hand broken and they also gave blows with iron rod and Dandas in the head of Jagtar Singh with an intention to kill who saved himself from his hands. I tried to intervene then Istikar gave axe blow from one side on my head with an intention to kill me and I raised my arm to save myself then axe of Istikar hit on my arm. Attackers came on Two Tractors Harro and on two motorcycles and after beatings while going said that either stop the cultivation of land otherwise kill all of them. Legal action be taken against all these persons. Dated 6.10.21. Sd/- Taro Devi."

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3. Counsel for the petitioner submits that the injuries suffered by the victim has been declared to be simple and thus the petitioner would be entitled for grant of pre-arrest bail. As per the contents of the FIR, the petitioner is stated to have given an axe blow with an intent to hit the head of the victim. However, having raised the arm the victim bore the assault on her arm.

4. Keeping in view the allegations levelled against the petitioner and the intent of petitioner, this Court finds that it is not a case where this Court should grant indulgence to grant pre-arrest bail to the petitioner.
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 the 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. In view of the aforesaid circumstances, this does not appear to be a fit case to grant discretionary relief of anticipatory bail to the petitioner.
8. Petition stands dismissed.
9. Needless to say, nothing recorded herein above should be construed as expression on merits of the case.
10. Pending application(s), if any, shall also stand disposed off.

(PANKAJ JAIN)

JUDGE

November 16, 2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No