

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105

CRM-M-729-2024
Date of decision : 09.01.2024

Mohd. Anwar Ali Petitioner

versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

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

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 438 Cr.P.C. for grant of pre-arrest bail to the petitioner in case bearing FIR No.54 dated 05.05.2023, registered for the offences punishable under Section 302/341/323/148/149 of IPC at Police Station Maqsudan, District Jalandhar.
2. FIR was registered on the statement of Bharat Singh s/o Lat Mahadev Singh, wherein it has been alleged as under:-

“Statement of Bharat Singh s/o Late Mahadev Singh resident of Village Dhanav Police Nursery Garh Bihar, presently resident of village Mubarikpur Shekhe Police station Maqsudan District Jalandhar aged 50 years, that I am resident of above address and does the work of selling vegetables and for the last two years approximately my residence at village Shekhe Mubarikpur and I have two sons and two daughters. Yesterday, on 04.05.2023 around 6:30 PM that I was coming back after selling vegetables that Zakir Mohammad son of Mohammad Ansari resident of Sangrampur Bihar who also

resides in my street and they had blocked the ingress/egress way in our street while storing sand. I had on previous occasion also requested them twice, to removed the same, however they did not remove the sand as thrown by them on road. When I again requested Mohammad Zakir to remove the same then he raised lalkara (shout) that get hold of me and I shall not be spared. Upon hearing his lalkara, Jalaludin son of Nasirrudin armed with iron rod, siraj son of Mohammad Alam, armed with stick, Anwar armed with Hockey, Khushboo w/o Zakir who was armed with brick in her hand who are residents of Bihar but at presently residing at Mubarikpur Shekhe and they after coming out from their houses inflicted injuries upon me and the injuries which were inflicted in my left eye and in my throat/neck, waist, and left ankle and also at other body parts and I then raised shouts that hearing the same my wife namely Chinta Devi, Amit Singh s/o Avtar Singh, Mausam s/o Om Prakash resident of Santokhpura Division no. 8 Jalandhar who had come to meet me at my house. All the persons who had come to meet me at my house came forward to get me freed. However, the above accused together also inflicted injuries to my wife and Mausam and Zakir who was armed with baseball bat had also hit Amrit Singh with the same. Baseball bat hit Amrit Singh in his head and Siraj had hit Amrit Singh with his stick which inflicted injury in the stomach of the Amrit Singh and Jalaludin armed with rod hit Amrit Singh in his chest. That all the above persons had hit Amrit Singh with their respective weapons and due to serious injuries which were inflicted upon Amrit Singh he fell on the ground and then all the above persons ran away from the spot with their respective weapons. Then my family members arranged for travelling to the hospital and removed me and my wife Chinta devi to the hospital at Civil Hospital where we were administered treatment. However, due to serious injuries Amrit Singh was referred to some other hospital namely Armaan Hospital Jalandhar. During his treatment at Armaan Hospital Jalandhar, due to serious injuries Amrit Singh succumbed to his injuries and died. The motive behind the same is enmity. Mohammad Zakir had thrown sand in the street due to which we were experiencing difficulty in ingress/egress and when we requested him to remove the same, then he instead of

removing the sand from the street rather attached us while conspiring with other accused persons wherein Amrit Singh had expired in the hospital. Sd/- Bharat Singh.xxxx”

3. 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.
4. It is the aforesaid considerations which need to be balanced by the Courts while considering grant of pre-arrest bail.
5. Keeping in view the seriousness of the allegations which have been levelled against the petitioner, this Court does not find this to be a case for discretionary view for pre-arrest bail.
6. Resultantly, the present petition is dismissed.

(PANKAJ JAIN)
JUDGE

09.01.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No