

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

CRM-M-4545-2024
Date of decision : 30.01.2024

ARUN....Petitioner

Versus

STATE OF PUNJAB....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Imran Farooqi, Advocate
 for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

PANKAJ JAIN, J. (ORAL)

Apprehending his arrest in FIR No.2, dated 04.01.2024, registered for offences punishable under Sections 323, 341, 379-B, 34 of the Indian Penal Code, 1860 at Police Station Kotwali Nabha, 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 :

“Statement of Achharu Ram, son of Birbal Kumar, resident of Navi Basti, Nabha District, Patiala, has submitted in writing to ASI Balwinder Singh, 41/SAS, regarding the offense under sections 323, 341, 379B, and 34 of IPC. This statement is against three unknown individuals for the registration of an FIR. PHG Kashmir Singh, 18662 of the police station, received it. Achharu Ram, son of Birbal Kumar, resident of Navi Basti, Nabha

District, Patiala, approximately 46 years old, with mobile number 98558-03799, states that he resides at the said address and conducts a grocery shop business at wholesale rates with his brother Sanjeev Kumar, alias Vicky, at Ghulad Mandi Bora Gate, Nabha. On 03.01.2024, around 10 o'clock at night, he and his mother, Darshana Devi, were returning home from the shop on their scooter, number PB-28-0142, brand Jupiter. As they were passing through Basantapura Mohalla, three unknown persons on an unnumbered motorcycle, who had their faces covered with cloth, forcefully collided with their scooter. This caused both Achharu Ram and his mother to fall to the ground. During this time, one of the assailants attempted to steal the Jupiter scooter, and Achharu Ram pursued him. Another assailant struck Achharu Ram on the head with a broken motorcycle part, resulting in injuries. The assailants then fled the scene with their motorcycle and Achharu Ram's scooter, which contained cash in the valley. After the incident, Achharu Ram contacted his brother Sanjeev Kumar, alias Vicky, using a passerby's phone and informed him of the entire incident. My brother arrived at the scene and took me to the Civil Hospital, Nabha, for treatment. I am currently at the hospital receiving treatment and demands legal action against these unknown assailants. I have provided this written statement in the presence of Kiran Rani, my wife. Sd/- Achhrau Ram, Endorsed by Kiran Rani and Attested by Sd/- Balwinder Singh, ASI of PS Kotwali Nabha, dated 04.01.2024.”

3. From the main accused Deepak Kumar @ Mangal, Scooty has been recovered and he has named the present petitioner.
4. State Counsel on advance notice submits that Deepak Kumar @ Mangal was nominated in the present case and was arrested on the same day which led to recovery of scooty and some cash amount. As per his

statement part of the snatched amount i.e. Rs.1,80,000/- was travelled to the petitioner.

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

6. 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.

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

8. Keeping in view the allegations levelled against the petitioner, this Court does not find it to be a case for grant of pre-arrest bail. Resultantly, the instant petition is dismissed.

January 30, 2024
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No