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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24286-2024
Date of decision : 15.05.2024

KULWINDER SINGH @ TONNY AND ANRPetitioners

Versus

STATE OF PUNJAB AND ANRRespondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Amaninder Preet, Advocate
for the petitioners.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

PANKAJ JAIN, J. (ORAL)

Apprehending his arrest in FIR No.36, dated 30.04.2024, registered for offences punishable under Sections 307, 324, 323, 148, 149 of the Indian Penal Code, 1860 at Police Station Bajakhana, District Faridkot, the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

2. Mr. Jaspreet S. Brar, Advocate appears and files memo of appearance on behalf of respondent No.2 today in Court, which is taken on record.

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

“Statement of Jatinderpal Singh son of Sukhmandar Singh son of Balvir Singh resident of Ran Singh Wala, District Faridkot aged about 38 years Mobile No.94658-86902. It is stated that I am resident of above mentioned address and an agriculturist. On

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24.04.2024 at about 08:30 PM I and my uncle Nachhattar Singh son of Balvir Singh, Harjit Singh son of Sukhpal Singh and Jagmit Singh son of Nachhattar Singh residents of Ran Singh Wala, after harvesting the wheat in our fields at Village Ran Singh Wala, were taking care of the same, then Kulwinder Singh @ Tony son of Karam Singh, Harinder Singh son of Harcharan Singh and Husandeep Singh son of Kulwinder Singh residents of Ran Singh Wala etc. started quarrelling with us on the issue of old dispute of passage and scuffle also took place and Husandeep Singh started making video of same, then combine persons intervened and sent both the parties to their respective fields. On coming to field Harjit Singh son of Sukhpal Singh and Jagmit Singh son of Nachhattar Singh took tractor trolley to home. I and my uncle Nachhattar Singh started finishing the remaining work. Kulwinder Singh by standing in his field started calling the persons and started bullying from far. Then at about 09.00 PM, two unknown persons called by Kulwinder Singh @ Tony along with Baltej Singh son of Balvir Singh resident of Ran Singh Wala armed with Kapaa came in a vehicle and also Kulwinder Singh @ Tony son of Karam Singh armed with sword, Harinder Singh son of Harcharan Singh armed with Kapa, Husandeep Singh son of Kulwinder Singh armed with baseball, all residents of Ran Singh Wala came to our fields while raising lalkaras (exhorting) and immediately Kulwinder Singh raised Lalkara and said that catch them today they may not be spared, then Harinder Singh gave Kapa blow on my right bicep. I got smeared with blood. Kulwinder Singh gave his sword on the right hand of my uncle Nachhattar Singh. Thereafter Kulwinder Singh also gave second blow on the left shoulder of my uncle. Thereafter Harinder Singh gave his Kapa blow on my uncle Nachhattar Singh and in order to save himself, my uncle raised his right hand and kappa blow hit the middle finger and little finger of right hand of my uncle Nachhattar Singh. Thereafter Baltej Singh gave reverse blow of his kappa on my uncle Nachhattar Singh which hit him on the right hand, then we both fell down, upon which unknown persons and Baltej Singh brought rope lying the

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field and Kulwinder Singh and Harinder Singh and Baltej Singh put said rope around my neck and Kulwinder Singh was saying that today we should finish them once for all. They all in order to kill me put rope in/around my neck and tried to kill me by strangulating then Kulwinder Singh gave turns to the rope lying in/around my neck with force and continued to drag me with the rope for long time. Thereafter I lost my half conscious and on hearing screaming of my uncle, being our homes near our fields and on seeing our family members coming with torches, they all ran away from the spot along with their weapons considering both of us as dead. Family members arranged vehicle and took us to hospital where we are under treatment. The reason behind this enmity is that a dispute is going with them on the issue of passage, regarding which we have got registered an FIR and under this grudge, they all in connivance with each other, have tried to kill us. Statement has been got recorded, read and is correct. Sd/- Jatinderpal Singh xxx”

4. MLR of the victim Jatinderpal Singh has been placed on record which shows the following injuries on his person:

Sr. No.	Injuries	Injury Number
1	6CM x 0.5 CM INCISED WOUND OBLIQUELY PLACED AT LATERAL ASPECT OF RIGHT ARM 22 CM DOWNWARD FORWARD ACROMIO CLAVICULAR JOINT. STICHING DONE AFTER DEBRIDGEMENT OF WOUND. ADV. X-RAY RIGHT ARM	1
2	18 CM x 02 CM SUPERFICAL LACERATION AT THE MIDDLE OF NECK. ADV. X-RAY NECK	2

5. Counsel for the petitioner submits that the parties are in thick of civil *lis* and as per CCTV footage available it can be seen that it is the complainant party who were the aggressors. He has further drawn attention of this Court to the proceedings part as mentioned in the FIR to submit that a deliberate attempt was made to convert the offence into Section 307 IPC by



misinterpreting the medical opinion. He further submits that the dragging part also cannot be believed as from the MLR of Jatinderpal Singh it is evident that there was no laceration or bruises on the body of the Jatinder Pal Singh which can show that he was dragged by putting rope around his neck.

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 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 contents of the FIR and the injuries as reflected in the MLR pertaining to victim, this Court finds that *prima facie* the allegations stand corroborated. Thus, it cannot be said at this stage that the allegations levelled against the petitioner are punctuated by any malice intent.

9. Keeping in view the serious allegations levelled against the petitioner, the mode and manner in which the occurrence was given effect to,



this Court does not find it to be a case for grant of discretionary relief of pre-arrest bail. Resultantly, the same is dismissed.

10. Needless to say anything observed hereinabove shall not be construed as an expression of opinion on the merits of the case.

May 15, 2024			(Pankaj Jain)
Dpr			Judge
	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No