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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.35890 of 2024
Date of decision: 29.07.2024

Sucha Singh and another ... Petitioners

Vs.

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

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

MANISHA BATRA, J. (Oral)

1. The present petition has been jointly filed by petitioners Sucha Singh and Updesh Singh seeking anticipatory bail in case arising out of FIR No.126 dated 29.05.2024 registered under Sections 323, 341, 148, 149 and 307 of IPC at Police Station Jandiala, District Amritsar Rural, on the basis of statement recorded by the complainant Sukhmanpreet Singh alleging therein that on 27.05.2024 at about 9 PM, he along with his father was going back towards his house from the fields and when they reached near the house of petitioner Sucha Singh, they were intercepted by the petitioner No.1-Sucha Singh, petitioner No.2-Updesh Singh who was armed with a knife, co-accused Gurjit Singh, Gurpreet Singh and Tajinder Singh. Accused Gurjit Singh and Gurpreet Singh were also

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armed with weapons. The accused Tajinder gave a lalkara to catch hold of the complainant and his father and not to leave them and then the petitioner No.1-Sucha Singh caught hold of father of the complainant from backside whereas the co-accused Gurjit Singh gave punches on the head of his father. The accused Gurpreet Singh struck blow with the reverse side of the spade on his person but the said blow hit on arm of his father. Gurjit Singh gave more punches to his father and a blow with spade on his right foot thereby injuring him. Petitioner No.2 caught hold of hair of the complainant and the co-accused Gurpreet Singh gave injuries to him with spade. Rescue alarm raised by him, attracted witness Sandeep Singh who rushed towards them. In the meanwhile, several other persons reached there and then the assailants fled from the spot with their respective weapons. The injured were rushed to the hospital. He alleged that his father was in serious condition and also that the motive on the part of the petitioners and co-accused to assault them was an old land dispute. After registration of FIR, investigation proceedings have been initiated and are underway. Apprehending their arrest, the petitioners had moved application for grant of pre arrest bail which was dismissed by the Court of learned Additional Sessions Judge, Amritsar on 18.07.2024.

2. It is argued by learned counsel for the petitioners that they have been falsely implicated in this case. There is delay of two days in lodging the FIR. No specific injury had been attributed to them. Infact, it is a case

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of version and cross version as the Kulwant Singh son of Jaswant Singh belonging to the party of the petitioners had also sustained injury in the occurrence on his head and the matter was also reported to the police. It is submitted that the custodial interrogation of the petitioners is not required. They are ready to join the investigation. No fruitful purpose would be served by detaining them in custody as no case for commission of offence under Section 307 of IPC has been made out. Therefore, it is urged that the petition deserves to be allowed.

3. Notice of motion.

4. Ms. Ruchika Sabherwal, Sr. DAG, Punjab, who has advance notice of the petition accepts notice on behalf of respondent-State and submits that she has instructions and is ready to argue the matter.

5. Ms. Komal Preet Kaur, Advocate accepts notice on behalf of the complainant and filed Vakalatnama which is taken on record.

6. Learned State counsel assisted by learned counsel for the complainant has submitted that there are serious allegations against the petitioners as they had actively participated in the occurrence and were named in the FIR. Their custodial interrogation is certainly required not only for effecting recovery of the weapons of offence but also for conducting proper investigation. Therefore, it is argued that the petition does not deserve to be allowed.

7. I have heard learned counsel for the parties at considerable length and have gone through the record.

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8. The petitioners are alleged to have formed membership of an unlawful assembly with the co-accused and in the prosecution of common object of that unlawful assembly, they are alleged to have caught hold of the complainant and his father and caused injuries to them. They are prima facie shown to be involved in the offence with the aid of Section 149 of IPC. The allegations against the petitioners are serious in nature. For conducting thorough investigation in the matter, the custodial interrogation of the petitioners is must. Moreso, it is well settled proposition of law that arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. The powers of anticipatory bail are extra ordinary and the same are to be exercised sparingly in exceptional circumstances. The judicial discussion conferred upon the Court has to be properly exercised after application of mind as to the nature and gravity of the accusation, possibility of applicant fleeing from justice and other factors to decide whether it is a fit case for grant of anticipatory bail as such grant to some extent interferes in the sphere of investigation of an offence. The Court must be circumspect while exercising such power for grant of anticipatory bail and it should not be granted as a matter of rule and has to be granted only when the Court is convinced that exceptional circumstances exist to resort to that extra ordinary remedy. In the present case, no such exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. As such, I am of the

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considered opinion that the petition does not deserve to be allowed.
Accordingly, the same is dismissed.

9. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

29.07.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No