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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.36579 of 2024
Date of decision: 12.08.2024

Jaskaran Singh ... Petitioner

Vs.

State of Punjab and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Sukhmeet Singh, Advocate,
for the petitioner.

Mr. Amandeep Singh Samra, AAG, Punjab,
for the respondent-State.

Mr. Amandeep Singh Saini, Advocate,
for the respondent No.2-complainant.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner seeking benefit of pre arrest bail in case arising out of FIR No.99 dated 11.07.2024 registered under Sections 323, 325, 341, 379B and 506 read with Section 34 of IPC and Sections 25 and 27 of Arms Act, 1959 at Police Station Baghapurana, District Moga, on the basis of statement recorded by the complainant Jasvir Singh @ Seera alleging therein that he was having dispute over some land with the petitioner, who is his real brother. The said dispute had been tried to be resolved in the Panchayat but to no effect. On 29.06.2024, the complainant after leaving two

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labourers namely, Lovi and Titu in his agricultural land had left for his home for taking food for them. While he was coming back towards the agricultural land at about 9:15 AM, his labourer Lovi was seen running who informed him that the petitioner was causing obstruction in their work. The complainant on reaching near his fields, found the petitioner being present there armed with a rod. He was accompanied by co-accused Seera Singh who was armed with a gandasas with gear of cycle welded on the other end of gandasas. On seeing them, the petitioner took out a pistol from his fold and pointed out the same to him while extending threat to kill him. Thereafter, accused Seera Singh struck a blow with gandasas on his head whereas the petitioner struck a blow with iron rod thereby causing injuries on his fingers, right elbow and left thigh. Accused Seera Singh also caused injuries to him. Thereafter, the petitioner by forcibly snatching his mobile phone and by hurling abuses, left the spot while extending threats to him. He was taken for treatment. He reported the matter to the police when the efforts made by him for conciliation of the matter before the Panchayat had failed.

2. After registration of FIR, investigation proceedings have been initiated and are underway. Apprehending his arrest, the petitioner moved an application for anticipatory bail which has been dismissed by the Court of learned Additional Sessions Judge, Moga vide order dated 24.07.2024.

3. It is argued by learned counsel for the petitioner that he has

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been falsely implicated in this case by the complainant on account of dispute with regard to land. The petitioner has already filed a suit for permanent injunction against him. Previously also, the complainant had lodged an FIR against the petitioner in which he was acquitted. There was delay of 12 days in reporting the matter to the police. The licenced weapon of the petitioner is already lying deposited in connection with case bearing FIR No.124 dated 27.08.2020 which was got registered against him by the complainant and, therefore, there was no question of his showing any firearm to the complainant. He is ready to join the investigation. His custodial interrogation is not required. No recovery is to be effected from him. Therefore, it is urged that he deserves to be extended benefit of pre arrest bail.

4. Learned State counsel assisted by learned counsel for the complainant, on the other hand, has submitted that the custodial interrogation of the petitioner is must for proper investigation of the matter by the police as well as for effecting recovery of weapon of offence and mobile phone of the complainant. It is also argued that there are serious allegations against the petitioner. He has criminal antecedents. There are chances of his committing similar offences again if extended benefit of pre arrest bail. Therefore, it is urged that the petition does not deserve to be allowed.

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

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6. The petitioner along with the co-accused is alleged to have assaulted the complainant on 29.06.2024 and voluntarily caused simple as well as grievous hurt to him. As per the allegations, he had pointed a pistol towards the complainant and also snatched his mobile phone while extending threat to kill him. Though it is claimed by the petitioner that his licenced weapon which was a 12 bore double barren gun is already lying deposited at Police Station Baghapurana in connection with a case bearing FIR No.124 dated 27.08.2020 and, therefore, there is no question of his having shown any weapon to the complainant. However, simply because his licensed weapon is lying deposited at a police station, it cannot be assumed that he did not show any other weapon to the complainant at the time of occurrence. For effecting recovery of the mobile phone of the complainant, the weapon of offence and for conducting thorough investigation in the matter, the custodial interrogation of the petitioner is must. There are specific allegations against him. 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

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

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

12.08.2024
manju/Parveen Sharma

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No