



CRM-M-39799-2024

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**105 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-39799-2024

Date of decision: 14th August, 2024

Mahir Singh @ Mehar Singh and another

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Nagesh Paul, Advocate for the petitioners.

Mr. A.S. Samra, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

By way of this petition the petitioners are seeking benefit of pre-arrest bail in case arising out of FIR No. 96 dated 03.06.2024 registered under Sections 452, 324, 323, 148 and 149 of IPC, 1860 (Section 326 of IPC added later on) at PS Sadar, District Fazilka, on the basis of statement recorded by the complainant Kulwinder Singh on 03.06.2024, while he was being admitted in Civil Hospital, Fazilka, alleging therein that on 02.06.2024, a verbal altercation had taken place between his wife Sukhpal Kaur and himself as the former had extended beatings to their children. On the same night at about, 9:30 PM, the accused Sukhpal Kaur called the present petitioners who are her real brothers in the house of the complainant.

They reached there with co-accused Gurpreet Singh and 7-8 unknown



persons. All of them were armed with swords and *gandasa*. The petitioner Mahir Singh by raising a *lalkara* opened an attack upon the complainant by inflicting a blow with sword thereby injuring the wrist of his left hand, whereas, the petitioner Sher Singh by inflicting another blow with his sword injured the right arm of the complainant. Co-accused Gurpreet Singh caused injuries to the complainant by striking blows with a stick which he was carrying. Then the petitioner Sher Singh struck another blow with sword, whereas petitioner- Mahir Singh pulled his hair and kicked him. The clamour raised by the complainant attracted his parents and other family members at the spot who rushed for his rescue but they too sustained injuries at the hands of the petitioners. Thereafter, the assailants fled from the spot while brandishing their weapons and using foul words. The injured were taken to the hospital. After registration of FIR, investigation proceedings have been initiated and are under way. Apprehending their arrest, the petitioners had moved an application for grant of anticipatory bail before the learned Additional Sessions Judge, Fazilka, which was dismissed on 19.07.2024.

2. The present petition has been filed by the petitioners on the grounds and it is argued by their counsel that they have been falsely implicated in this case. Infact, on 03.06.2024, the complainant had given severe beatings to his wife Sukhpal Kaur and he used to do so earlier also. Sukhpal Kaur was admitted at Civil Hospital, Fazilka in injured condition. The complainant in order to save themselves, had lodged a false FIR against the petitioners. They are ready to join the investigation. Their custodial



interrogation is not required. No recovery is to be effected from them. No injury has been sustained by the complainant on any vital part of his body. As such, it is urged that they deserve to be extended benefit of anticipatory bail.

4. *Per contra*, learned State counsel who has advance notice of the petition while submitting that he is ready with arguments, has stressed that the allegations against the petitioners are grave and serious in nature. They along with the co-accused and some unidentified persons had formed membership of an unlawful assembly, and in prosecution of common object of that unlawful assembly they reached at the house of the complainant and had inflicted injuries with dangerous weapons on the person of the complainant as well as his family members. The custodial interrogation of the petitioners is required for conducting thorough investigation of the matter by the police as well as for effecting recovery of weapons of offence. Even otherwise no extra ordinary or sparing circumstance has even otherwise been made out for the purpose of extending benefit of bail to the petitioners. Therefore, it is urged that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. The petitioners are alleged to have formed membership of unlawful assembly and in prosecution of common object of that assembly, they caused injuries on the person of the complainant and his family



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members. Both the petitioners allegedly struck blows with sword on the person of the complainant. One of the injuries so sustained has been declared to be grievous in nature and is shown to have been caused by sharp edge weapon as per the medico legal report. The weapons used by the petitioners are to be recovered from them. In such circumstances, in my considered opinion, the custodial interrogation of the petitioner is a must, not only for the purpose of eliciting the truth but also for conducting a free, fair and thorough investigation in the matter. Moreso, the well settled proposition of law is that the powers under Section 438 of Cr.P.C. are extra ordinary powers which are to be exercised in exceptional and sparing circumstances and the same should not operate as inroad in the normal legal procedure of criminal cases by the trial Court. As this concession certainly interferes in the sphere of investigation of an offence to some extent, therefore, while granting the same, it is the duty of the Court to be circumspect and to grant such relief only when it is convinced that exceptional circumstances exist, which in my considered opinion do not exist in this case keeping in view the nature of the allegations as levelled against the petitioners. As such, finding no merits in the petition, the same is dismissed.

6. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

14th August, 2024

Parveen Sharma

1. Whether speaking/ reasoned	:	Yes
2. Whether reportable	:	Yes