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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.48734 of 2024
Date of decision: 03.10.2024

Ritu and another ... Petitioners

Vs.

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Priyanshu Kamra, Advocate,
for the petitioner.

Mr. Akshay Kumar, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The instant petition has been jointly filed by the petitioners under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) making prayer for grant of pre arrest bail in case bearing GD No.42 dated 12.03.2024 under Sections 323, 324, 326, 365 and 506 read with Section 34 of IPC entered as against the petitioners at Police Station Banur, District Patiala in FIR No.8 dated 18.02.2024 registered under Sections 323, 325, 506, 148 and 149 of IPC at Police Station Banur, District Patiala.

2. Brief facts of the case relevant for the purpose of disposal of

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the present petition are that on 13.02.2024, on receipt of an information from Community Health Centre, Banur regarding admission therein of Sukhwinder Singh who is husband of the present petitioner No.1 and father of petitioner No.2, due to injuries sustained in some altercation, a police party immediately rushed there and after obtaining opinion of doctor as to fitness of injured Sukhwinder Singh, recorded his statement who stated that on 10.02.2024, the death anniversary of his mother was performed in his house and for that purpose, several persons had assembled. As the debris of newly constructed house of the accused Jarnail Singh in the neighbourhood were lying in the street in front of the house of the complainant, therefore, he had picked it up and had cleaned the street. On 13.02.2024, he noticed that Jarnail Singh had again kept all the debris in front of his house. When the complainant confronted him about the same, then the accused Jarnail Singh with co-accused Balveer Singh, Kaka Singh, his wife and wife of Balveer Singh entered inside his house and opened an assault upon him. He raised alarm on hearing which his wife had rushed for his rescue but she too sustained injuries at the hands of the assailants. Her gold earrings had fallen down in the scuffle. The entire incident had been captured by petitioner No.2 Vishu in his mobile phone. The injured was taken to hospital and was under treatment. Initially, a DDR No.30 dated 13.02.2024 was registered and as on 18.02.2024 on receipt of medical opinion regarding nature of the

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injury as found on the complainant Sukhwinder Singh to be grievous, the aforementioned FIR was registered.

3. As per the further allegations, on 13.02.2024 itself one more information had been received regarding sustaining of injuries by Kaka Singh and Balveer Singh (co-accused in FIR No.8) and their being referred to hospital. Opinion had been obtained regarding the condition of injured Kaka Singh and then his statement was recorded. He alleged that on 13.02.2024, he along with his son Jarnail Singh was opening the gate of his house at about 8 AM, when he noticed that Sukhwinder Singh had started keeping things in front of his house. Thereafter, he hurled abuses to Kaka Singh. In the meanwhile, his son Vishu i.e. the petitioner No.2 reached there with a sword and opened an assault upon him. His son rushed for his rescue but Pappu brother of Sukhwinder Singh started pelting stones upon him and the petitioner No.1-Ritu assaulted him and petitioner No.2-Vishu attacked his brother-Balveer Singh with sword. He was badly injured and had been taken to hospital and was under treatment. On the basis of his statement, initially a DDR was entered and on receipt of medical opinion regarding the nature of injuries found on the person of injured Kaka Singh to be grievous and being caused by sharp edged weapon, GD No.42 was registered on 12.03.2024 under Sections 323, 324, 326, 365 and 506 read with Section 34 of IPC by way of cross case. Apprehending their arrest, the petitioners had moved

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applications for grant of pre arrest bail which have been dismissed.

4. It is argued by learned counsel for the petitioners that they have been falsely implicated in this case. The petitioner No.2 is minor and a student. It is a case of version and cross versions. There is substantial delay in reporting the matter to the police by the Kaka Singh, complainant of GD No.42. The petitioners are not aggressors rather they have been falsely implicated and forcefully dragged in this case. Their custodial interrogation is not required. They are ready to join the investigation. No useful purpose would be served by detaining them in custody. Therefore, it is urged that the petition deserves to be allowed and they deserve to be extended benefit of pre arrest bail.

5. Learned State counsel has contested the petition without filing any reply but has shown copy of medico legal report of the injured Kaka Singh. It is argued by him that there are specific and serious allegations against the petitioners. The statement of complainant Kaka Singh was recorded on 13.02.2024 itself and a DDR was entered and it was only because of the fact that medical opinion as to nature of injuries sustained by Kaka Singh could be received later on that GD No.42 was registered on 12.03.2024. There are specific allegations that both the petitioners had opened assault upon the victim Kaka Singh and his brother Balveer Singh and the petitioner No.1-Ritu had struck blow with cudgel (dang) on the back of Kaka Singh whereas Vishu had struck blow with sword on the

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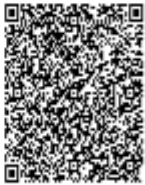


right elbow and had injured little finger of his left hand and middle finger of right hand. The allegations against the petitioner are serious. No extraordinary circumstance has been made out for allowing the petition. Their custodial interrogation is required for conducting thorough investigation in the matter. Therefore, it is urged that the petition does not deserve to be allowed.

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

7. The petitioners are alleged to have voluntarily caused simple as well as grievous injuries to the injured Kaka Singh on 13.02.2024. In the same incident, Sukhwinder Singh husband of petitioner No.1 and father of petitioner No.2 is alleged to have sustained injuries and FIR No.8 dated 18.02.2024 was registered on the basis of his complaint against the members of the party of the injured Kaka Singh. Both the parties have levelled allegations against each other. However, keeping in view the nature of the injuries which have been attributed to the petitioners and which were found on the person of injured Kaka Singh as per his medico legal report, the weapons attributed to them coupled with the fact that the injured Kaka Singh had recorded his statement on the day of occurrence itself whereas the cross FIR at the behest of Sukhwindr Singh i.e. husband of petitioner No.1 had been recorded after the delay of five days

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of the occurrence, for effecting recovery of weapons of offence and for thorough investigation of the matter, custodial interrogation of the petitioners is required. It is well settled proposition of law that benefit of pre arrest bail should be granted in extraordinary and exceptional circumstances and not as a matter of routine and rule but no such circumstance is made out. The investigation is at its nascent stage. In view of the above discussed facts and circumstances but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petitioners do not deserve to be extended benefit of pre arrest bail. Hence, the petition is dismissed.

03.10.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No