

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

CRM M-59359-2023 (O&M)
Date of Decision: 12.02.2024

Sukhwinder Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Arshpreet Khadial, Advocate,
for the petitioner.

Ms. Avneet, AAG, Punjab
assisted by ASI Dev Parkash.

Mr. R.S. Sekhon, Advocate,
for the complainant.

MAHABIR SINGH SINDHU. J.

Status report dated 12.02.2024 by way of affidavit of Sh. Rajesh Kumar, PPS, DSP (Rural), Ferozepur filed on behalf of respondent-State is taken on record.

Registry to tag the same at appropriate place.

Present petition has been filed under Section 438 of the Code of Criminal Procedure (for short “Cr.P.C”) for grant of pre-arrest bail to the petitioner in FIR No.99 dated 06.10.2021 registered under Sections 341, 324, 323 & 148 read with Section 149 IPC (Section 326 and 379-B IPC added later on) at Police Station, Mamdot, District Ferozepur.

2. Allegations are that petitioner along with co-accused formed an unlawful assembly and in furtherance of their common object, caused injuries on the person of complainant Bakhshish Singh.

3. This Court vide order dated 24.11.2023, granted interim bail to petitioner and the same reads as under:-

“Contends that occurrence is alleged to have taken place on 04.10.2021; initially FIR No.0099 dated 06.10.2021, was registered under Sections 323, 324, 341, 148 read with Sections 149 of the Indian Penal Code, 1860, (for short, 'IPC') and as such all the offences were bailable. Further contends that offence under Section 379-B IPC was added vide GD No.015 dated 31.07.2023 (P-5) and now in order to harass the petitioner, offence under Section 326 IPC is also added without any basis vide GD No.033 dated 12.11.2021 (P-2), despite the fact that family partition had already taken place between petitioner and complainant, being real brothers.

Notice of motion.

On asking of the Court, Mr. Joginder Pal Ratra, Sr. DAG, Punjab, accepts notice on behalf of the respondent and seeks time to have instructions and/or file written response in the matter.

Learned counsel for the complainant vehemently opposed the prayer of petitioner.

Posted for 12.02.2024.

In the meanwhile, petitioner shall join investigation before the Investigating Officer. In the event of his arrest, the Arresting Officer would admit him to interim bail, till the next date of hearing, on furnishing adequate bail and surety bonds to his satisfaction. The petitioner shall also abide by all the conditions as envisaged under Section 438(2) of the Code of Criminal Procedure, 1973.”

4. Learned counsel on instructions from petitioner submits that in pursuance of the aforesaid order, he has joined investigation, therefore, his custodial interrogation is not required.

5. The above factual position is duly acknowledged by learned State Counsel, on instructions from quarter concerned and fairly submitted that

6. Although, learned counsel for complainant objected to the prayer of the petitioner, but since State is not asking for custodial interrogation, therefore, the objection of complainant stands rejected. In view of above, interim order dated 24.11.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

7. It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.

8. The above observations be not construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.

9. Disposed off accordingly.

10. Pending criminal misc. application(s), if any, shall also stand disposed off.

12.02.2024

SN

Whether speaking/reasoned : Yes/No

Whether Reportable: Yes/No

(MAHABIR SINGH SINDHU)
JUDGE