

(2020) 09 P&H CK 0251

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 25556 Of 2020 (O&M)

Puran Chand @ Pooran Chand And Others

APPELLANT

Vs

State Of Punjab

RESPONDENT

Date of Decision : 02-09-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 313, 438

Indian Penal Code, 1860 — Section 149, 186, 188, 323, 342, 353

Disaster Management Act, 2005 — Section 51

Citation : (2020) 09 P&H CK 0251

Hon'ble Judges : H. S. Madaan, J

Bench : Single Bench

Advocate : J.S. Grewal, J.S. Ghuman

Final Decision : Dismissed

Judgement

H. S. Madaan, J

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for grant of pre-arrest bail has been filed by petitioners - Puran Chand @ Pooran Chand aged about 44 years and his sons Hari Om, aged about 22 years and Kannu @ Vishal Sharma, aged about 20 years, residents of Street No.2, Indira Nagri, Abohar, Tehsil Abohar, District Fazilka, all of them being accused in FIR No. 179 dated 26.7.2020, for offences under Section 353, 186, 188, 342, 323, 149 IPC and Section 51 of Disaster Management Act (Sections 188 IPC and Section 51 of Disaster Management Act, added later on), registered at Police Station City 1, Abohar.

Briefly stated, facts of the case, as per the prosecution story are that, criminal machinery in this case was set into motion by complainant- PHG Bablu Kumar 6767, posted at Police Station City 1, Abohar, aged about 45 years, who in his statement got recorded with the police stated that on 26.7.2020, when he alongwith PHG, Devi Lal, was on duty with PCR vehicle, motorcycle having No.

PB-22K-6488, then Devi Lal received a call on his mobile phone bearing number 81461-78357, from one Sushma Rani w/o Rakesh Kumar, resident of Street No. 2, Indira Nagri, Abohar, to the effect that some persons were fighting on the road. Then the complainant alongwith PHG Devi Lal, who was posted at 12 No. Chowk, reached at the spot. They observed that some men and women were fighting in street No.2, Indira Nagri. Hari Om s/o Puran Chand Sharma gave a slap to Laxmi and otherwise beat her up. When the complainant and Devi Lal tried to intervene, then Hari Om gave a slap to the complainant. The complainant and Devi Lal tried to overpower him, but he entered his house. While the complainant chased him inside his house, Hari Om shut the door from inside and started beating up the complainant and gave a fist blow on his face. His co-accused Puran Chand s/o Rameshwar Dass , Kannu son of Puran Chand, Mamta w/o Puran Chand, Sudhir Kumar s/o Vishnu Sharma, Babita w/o Sudhir Sharma, on exhortation of Hari Om, gave merciless beatings to the complainant. Kannu gave a fist blow on the face of the complainant, whereas Sudhir Sharma gave a fist blow on his flank, Puran and his wife Mamta Rani dragged and tore clothes of the complainant. Mamta Rani took off badge from right shoulder of the complainant. Babita Rani and Hari Om struck head of the complainant on the wall, as a result of which, complainant suffered injury on the backside of his head. Then Hari Om stated that they should have some injuries on the persons from their side and who be got admitted in the hospital and complainant be implicated in a false case. As such Mamta struck her own head against the wall. The accused assailants took the complainant to the street and gave beatings to him, stating loudly that complainant had given injuries to them. Devi Lal had given information at the Police Station. Thereafter, the assailants ran away from the spot. PHG Devi Lal took the complainant -injured to Civil Hospital, Abohar and got him admitted there. He was medically treated and medico legally examined there.

After registration of the formal FIR, apprehending their arrest, in this case, the petitioners-accused had approached the Court of Sessions at Fazilka, for grant of pre-arrest bail. The application moved by Mamta Rani and Babita praying for grant of such relief was accepted by Additional Sessions Judge, Fazilka, to whom that application was entrusted vide order dated 21.8.2020. Whereas , such application filed on behalf of Puran Chand , Hari Om and Kannu @ Vishal Sharma - the present petitioners-accused, was dismissed vide order dated 13.8.2020.

Feeling dissatisfied, such accused have knocked at the door of this Court craving for grant of anticipatory bail, which prayer is being opposed by the State counsel.

I have heard, learned counsel for the petitioners, learned State counsel, besides going through the record.

Learned counsel for the petitioners has contended that the FIR has been lodged by the complainant on the basis of wrong facts. Actually complainant was acquainted with one Laxmi and at her instance, he had caused injuries to the petitioners and their family members including females, which fact is

corroborated from MLR No. 165 of Mamta Rani w/o Puran Chand @ Pooran Chand, who was admitted in Civil Hospital at 11.30 A.M. on 26.7.2020 for injuries caused by the complainant. However, to save himself from the action, the complainant has created a false story getting himself admitted in Civil Hospital at 12 noon. The petitioners are themselves victims and not the aggressors. Their co-accused have been granted pre-arrest bail by the Court of Additional Sessions Judge, Fazilka, whereas such relief qua the petitioners was wrongly denied to them. They are ready and willing to join the investigation. Therefore, they be granted anticipatory bail especially when from the allegations in the FIR no serious offence against the petitioners is disclosed and at the most the offence which is made out is under Section 323 IPC, which is bailable.

On the other hand learned State counsel has vehemently opposed the prayer contending that the petitioners accused had given merciless beatings to a police official on duty without any provocation or justifiable reason. As such they are not entitled to the discretionary equitable relief of anticipatory bail, which can be granted in exceptional cases only.

After hearing the rival contentions, I find that the matter before this Court is as to whether the petitioners deserve to be granted the concession of pre-arrest bail or not. As rightly pointed out by the State counsel, such relief is not to be granted in routine but only in cases where it is found that the criminal case has been registered as a tool of harassment and victimization of some persons for some extraneous reasons and not on factual position. The Court at this stage is not to look minutely into the merits of the case, since that is domain of the trial court, before whom the entire record of the investigation conducted, including the documents/articles taken into possession, the statements of the witnesses recorded during the trial, the plea taken by the accused in this statement under Section 313 Cr.P.C., the defence evidence adduced by him, are available. At this stage, the Court is mainly concerned with the prosecution story, so set up. I do not find any reason to disbelieve the prosecution story and rely upon the version set up by the petitioners at this stage, merely because one of the co-accused of the present petitioners, namely Mamta Rani, who is a female, was admitted in the hospital, prior in time to admission of the complainant in the hospital, is not such a reason, based upon which, the prosecution story can be held to be doubtful at this stage. The motive suggested that the complainant had caused injuries to the petitioners and their family members at the instance of one Laxmi, also does not come out to very cogent and convincing. This matter, involving merciless beatings given to a police official on duty, cannot be taken lightly, lest that should send a wrong signal in the society that one can indulge in such type of acts and get away with that. If the concession of pre-arrest bail is granted to the persons accused of assaulting public servants on duty, that may further embolden the people to take law in their own hands and indulge in further such acts, resultantly demoralizing such public servants especially when they are from Law Enforcement Agency.

Custodial interrogation of the petitioners is found to be necessary to find out as to whether the incident was pre-planned or which happened at the spur of the moment, the role played by each one of the accused etc. In case the custodial interrogation of the petitioners is denied to the Investigating Agency, that shall adversely affect the investigation, which is uncalled for.

Therefore, the petition is found to be without any merit and is dismissed accordingly.

However, nothing discussed above shall have any bearing on the merits of the case.