

**IN THE COURT OF VIKRANT KUMAR,
ADDITIONAL SESSIONS JUDGE,
MOGA (UID No.PB00213).**

CNR No.PBMO010056532021

CIS Filing No.BA/2174/2021.

Date of order : 18.10.2021.

State Versus

1. Gurdev Singh son of Bur Singh, resident of Village Peer Mohammad, Tehsil Zira, District Ferozepur.
2. Gursewak Singh @ Soni Sarpanch son of Chanan Singh, resident of Basti Samund Singh, Tehsil Dharamkot, District Moga.
3. Vipan Kumar son of Jeet Kumar @ Surjit Kumar, resident of Village Sherpur Taiban, Tehsil Dharamkot, District Moga.
4. Gurmail Singh son of Balvir Singh, resident of Chak Tarewala, Tehsil Dharamkot, District Moga.

----Applicants-accused

FIR No.203 dated 29.09.2021.

Under Sections: 323,336,148,149 IPC
and 25,27 Arms Act

Police Station : Dharamkot.

Bail Application under Section 438 Cr.P.C

Present:- Shri Anshuman Syal, Additional Public Prosecutor for State assisted by Shri Balwinder Singh Gill, Advocate for complainant Shri Gagandeep Singh Brar, Advocate for applicants-accused Gurdev Singh, Gursewak Singh @ Soni Sarpanch, Vipan Kumar and Gurmail Singh.

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ORDER

The brief facts of the case, which require consideration for disposal of the present bail application are that present FIR has been lodged on the basis of statement made by Gurdev Singh son of Lachhman

Singh that his father Lachhman Singh had sold four kanals of land about 20 years ago, to his paternal uncle Dalip Singh. Adjacent to above said land, they had left 1-1/2 marla land for parking their agricultural implements, in which, four mulberry trees were standing. Pritam Singh son of Bur Singh wanted to install gate in the said land, to which, they are opposing. On 29.09.2021 at about 4.30 p.m., Pritam Singh called many persons including his brother, nephews and other relatives along with weapons. Pritam Singh son of Bur Singh armed with 12 bore gun; Sukhwinder Singh @ Raju son of Pritam Singh armed with revolver; Gurdev Singh son of Bur Singh armed with 315 bore rifle; Sarabjit Singh son of Gurdev Singh armed with revolver, Sony sarpanch son of Chanan Singh armed with pistol; Vipin Kumar son of Jeet Kumar armed with revolver; Lakhi armed with pistol, Gurmail Singh armed with 12 bore gun and 10-12 unknown persons armed with sticks came to his fields and forcibly started raising boundary pillars for installation of gate and started uprooting mulberry trees, to which, they resisted. At this, all the above said persons started firing. Gurdev Singh fired from 315 bore rifle hitting on the little finger of his right hand. Sukhwinder Singh @ Raju gave brick-bat blow hitting on the head above ear of his nephew Gursewak Singh. His daughter-in-law Baljit Kaur wife of Jasvir Singh, when came to their rescue, Gurdev Singh and his son Sarabjit Singh caught hold her and gave leg blows on her abdomen. Joginder Singh, Numberdar had seen the entire occurrence, who got them admitted in Civil Hospital, Kot Ise Khan. It is alleged that motive behind the assault is that Pritam Singh wanted to install gate on their land, to which, they were opposing. Due to that grudge, he along with his companions inflicted injuries on their persons.

3. Cross-DDR bearing No.4 dated 30.09.2021 was recorded on the statement of Sukhwinder Singh son of Pritam Singh that his father is Sarpanch of Village Sherpur Khurd, but they belonged to Village Peer

Mohammad. He is residing in his maternal grand parent's village for the last 20-25 years. His maternal grand father Dalip Singh had purchased four kanals land adjoining phirni of village from Lachhman Singh. They had constructed a room, shed for parking vehicles and chaff room in the said land. Adjacent to their land, there is a house of Gurdev Singh son of Lachhman Singh. They had to construct a boundary pillars to install gate, but Lachhman Singh and his family members were not allowing them to do so. On 28.09.2021 at about 4.30 p.m., masons were constructing boundary pillars. Then Gurdev Singh son of Lachhman Singh armed with dang; Jasbir Singh son of Gurdev Singh armed with pistol; Manpreet Singh son of Gurdev Singh armed with pistol; Baljit Kaur wife of Jasbir Singh armed with brick-bat; Sukhjit Singh son of Binder Singh armed with kapa; Gursewak Singh son of Balwinder Singh armed with stick; Joginder Singh-Numberdar armed with stick; Lovepreet Singh son of Makhan Singh armed with baseball; Judge Singh son of Pritam Singh armed with brick bat; Bakshish Singh son of Joginder Singh armed with kirpan; Jatinderpal Singh son of Jagjit Singh armed with baseball; and Gurmeet Kaur wife of Gurdev Singh armed with brick bat came on the road. Gurdev Singh raised lalkara. At this, accused started throwing brick bats. On resisting, Jasbir Singh fired two shots towards him, which hit on his legs. Manpreet Singh fired shot from his pistol which hit below his shoulder. He fell on the ground. They also inflicted injuries to Baldev Singh also while throwing brick-bats. People from his side also gathered at the spot, who rescued them and took them to house. Angrej Singh son of Dhara Singh, his relative after making arrangement for conveyance got them admitted in Civil Hospital, Kot Ise Khan, from where, they were referred to Civil Hospital, Moga and due to fire injury, he was referred to Guru Gobind Singh Medical College & Hospital, Faridkot. It is alleged that motive behind the assault is that he wanted to install gate in his land, but Gurdev Singh etc. were not allowing them to do so and due to that

they caused injuries to them.

4. Learned counsel for accused-applicants has submitted that a false FIR has been lodged against applicants-accused. He has submitted that on the statement of Sukhwinder Singh son of Pritam Singh, DDR No.4 dated 30.09.2021 under Sections 324,323, 148,149 IPC and 25,27 Arms Act has been lodged whereas injuries on the person of complainant of present FIR Gurdev Singh son of Lachhman Singh are simple in nature and caused with blunt weapon. He has submitted that custodial interrogation of applicants-accused is not necessary and prayed for grant of pre-arrest bail.

5. Learned Additional Public Prosecutor assisted by learned counsel for complainant has submitted that custodial interrogation of applicants-accused is required and no ground is made-out to grant pre-arrest bail to applicants-accused. He prayed for dismissal of pre-arrest bail application.

6. I have heard learned counsel for applicants-accused as well as learned Additional Public Prosecutor assisted by learned counsel for complainant and have gone through the record carefully.

7. It has been argued that it is a case of clash between the parties with regarding to installation of gate. Accused-applicants were not arrested from the spot. Perusal of MLR of Gurdev Singh son of Lachhman Singh shows that there is injury on the ring finger of right hand and reddish abrasion on palmer aspect of right hand. On the person of Gursewak Singh son of Balwinder Singh, there is reddish abrasion over the right parieto temporal region of skull. Similarly on the person of Baljit Kaur, there is complaint of pain over the abdomen lower side diffusely, no external injury was seen. On the other hand, perusal of MLR of Sukhwinder Singh son of Pritam Singh reveals that there is small punctate abrasions on posterior aspect of right hand, multiple puncture wounds on the posterior aspect of left leg and multiple puncture wounds on the chest.

Similarly, on the person of Baldev Singh son of Buta Singh, there is swelling on the ventral aspect of left leg with superficial puncture wound, incised wound on the left forearm and puncture wound over the left arm. This Court is of the view that it is the complainant party, who had inflicted serious injuries on the person of Sukhwinder Singh son of Pritam Singh. It seems that Sukhwinder Singh etc. are the aggressor party. Thus, custodial interrogation of applicants-accused is not required. In the considered opinion of this court, presence of the accused-applicants is required in this case to complete investigation, therefore, no useful purpose would be served by declining pre-arrest bail to them, particularly when they can be directed to join the investigation. Resultantly, the accused-applicants are directed to join investigation by presenting themselves before Investigating officer and in the event of their arrest, they be released on interim bail on furnishing bail bonds to the satisfaction of Investigating /Arresting Officer.

Now to come up on 27.10.2021, for awaiting the outcome of investigation.

Pronounced.
Dated :- 18.10.2021.
Jagjit Singh Panesar, Stenographer-I

(Vikrant Kumar)
Additional Sessions Judge
Moga (UID No.PB00213).