

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

CRM No. M- 6598 of 2016(O&M)

Date of Decision: 17.03.2016

Mubarik

...Petitioner

Versus

State of Haryana

...Respondent

CRM No. M-7402 of 2016 (O&M)

Asru

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Jamshed Ahmed, Advocate,
for the petitioner in CRM No.M-6598 of 2016.

Mr. Chanderhas Yadav, Advocate,
for the petitioner in CRM No.M-7402 of 2016.

Mr. Deepak K. Grewal, DAG, Haryana.

TEJINDER SINGH DHINDSA. J (ORAL)

This order shall dispose of CRM Nos.M-6598 of 2016 titled Mubarik Vs. State of Haryana and CRM No.M-7402 of 2016 titled Asru Vs. State of Haryana as both these petitions filed under Section 439 Cr.P.C. seeking benefit of regular bail to the petitioner(s) herein pending trial in case FIR No.43 dated 10.03.2015, under Sections 148, 149, 323, 324, 325, 326, 427, 436, 452, 395, 397, 506, 316 of Indian Penal Code, registered at Police Station Nagina, District Mewat, Haryana.

Counsel for the parties have been heard.

Perusal of the FIR would reveal that nephew of the complainant Mohammed Anish had entered into matrimony with Rijwana without consent of the elders and had even moved a petition seeking protection of life and liberty before this Court and which was allowed on 09.01.2015. Both Mohammed Anish and Rijwana were thereafter stated to be staying in a protection home at Nuh. Apparently, since it was a marriage between two members of the same community, a Panchayat was stated to have been convened in which the complainant Wali Mohammed had executed an agreement in favour of Ahmad and had deposited Rs.3 lac with one Mubin as security as also entered into an agreement pertaining to land on the condition that the couple would come back to the village and upon their refusal the security amount etc. would be handed back. It so transpires that the couple having refused to return back to the village, an occurrence is stated to have taken place on 09.03.2015 wherein allegedly about 120 people armed with lathis, dandas, farshas, stones etc. attacked the house of the complainant party and such mob is stated to have committed dacoity and taken away silver and gold ornaments as well.

Insofar as the petitioners in these two connected petitions are concerned even though their names find a mention in the FIR yet no direct role/overt act has been attributed to them and neither has any recovery been effected from them.

The petitioners in both these petitions are stated to be in custody since 06.04.2015.

It would be pertinent to take note that in CRM No.M-

31247 of 2015 preferred by co-accused Majid seeking benefit of regular bail, submission had been raised by counsel for the complainant as well as State counsel that there was a rivalry between two communities in the area and as such there might be a danger of law and order situation developing. Accordingly, Superintendent of Police, Mewat was directed to file a situation report and even report of the learned District and Sessions Judge, Mewat was sought.

The requisite reports called for were placed on record in the connected petition and based thereupon it was opined that the apprehension as regards the law and order situation developing was misconceived and the trial could proceed un-hampered.

Investigation in the cases is already complete and the challan has been presented. The matter has already been committed to the Court of Sessions.

In view of the above and coupled with the length of incarceration already suffered by the petitioners, they are held entitled to the benefit of bail.

Petitions are allowed. Petitioners be enlarged on bail subject to satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Nuh.

Disposed of.

17.03.2016

vandana

**(TEJINDER SINGH DHINDSA)
JUDGE**