

202 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-14659-2016
Date of decision-24.04.2017

Rahul and others
Vs.
State of Haryana

...Petitioners

...Respondent

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Prateek Rathee, Advocate for the petitioners.

Mr. Saurabh Mohunta, DAG, Haryana assisted by
ASI Rajbir.

Mr. Rajesh Sharma, Advocate for the complainant.

JITENDRA CHAUHAN, J. (Oral)

By filing the present petition under Section 438 of the Code of Criminal Procedure, the petitioners have sought anticipatory bail in FIR No.127 dated 25.03.2016 registered under Sections 148, 323, 452, 506 and 325 read with Section 149 of the Indian Penal Code at Police Station Rajendra Park, Gurgaon.

On 19.05.2016, this Court had passed the following order:-

“Prayer is for grant of anticipatory bail to seven accused petitioners Rahul Tyagi, Shalesh, Sachin, Deen Dayal, Deepak, Nikki and Lalit in case FIR No.127 dated 25.3.2016 under Sections 148, 149, 323, 452, 506, 325 IPC, PS Rajendra Park, Gurgaon.

There is a dispute between two families and there is a version and cross version of the occurrence at around 8.30 pm on 24.3.2016.

Petitioner no.4 Deen Dayal has lodged the cross version bearing FIR No.128 dated 25.3.2016 under Sections 148, 149, 323, 452, 506 (P-2), PS Rajender Kalan. Eight persons from both sides have received injuries including grievous to some of them.

As per version in the present FIR recorded by the complainant Kanwarpal, due to an old rivalry seven

petitioners-accused accompanied by 14 other non-applicants co-accused entered the house of Pardeep and caused injuries to Pardeep, complainant Kanwarpal and six others with lathis/dandas. It is submitted that Pardeep has suffered a fracture on the forehead while injured Prem dislocation of middle finger which has been declared to be grievous in nature.

It is contended that none of the petitioners have been attributed a grievous injury on the other party while three petitioners Rahul, Deepak and Sachin had suffered injuries including grievous on two of them.

Notice of motion for 23.7.2016.

In the event of arrest, the petitioners shall be released on bail on furnishing adequate bail and surety bonds to the satisfaction of the Arresting/Investigating Officer. Petitioners shall appear before the I.O., as and when called upon for investigation and shall also be bound by all the conditions stipulated in Section 438(2) Cr.P.C.”

It is asserted by learned counsel for the petitioners that in the cross version, a case under Section 307 of IPC is made out against the complainant party. Learned counsel refers to MLRs of Jagwati, Ravi, Sachin, Deepak, Jitender, Rahul, Rajesh and Som Dutt from the petitioners' side (Annexure P-4 colly) to contend that they had received injuries which make out a case under Section 307 IPC. However, the cross version has been recorded only under Sections 148, 323, 452, 506 and 325 read with Section 149 of the IPC. It is further contended that in pursuance of the order passed by this Court on 19.05.2016, Commissioner of Poilce, Gurugram has filed the reply which is totally against law.

On the other hand, the learned State counsel, submits that in pursuance of the order dated 19.05.2016, though the petitioners have joined the investigation but they are required for custodial interrogation.

Learned counsel for the complainant argues that injuries from

complainant side were caused to Premwati, Pradeep, Kanwar Lal, Pramod, Rajender, Surander, Ram Saroop and Vinod.

However, considering the nature of the injuries received by both the sides, the Court is not inclined to express any opinion at this stage and the question whether the offence under Section 307 of IPC is made out in the cross case, is left open. The petitioners are at liberty to raise the same in appropriate petition before an appropriate forum.

Without expressing any opinion on the merits of the case, the interim bail granted by this Court vide order dated 19.05.2016 is made absolute, subject to furnishing bail bonds/surety bonds to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, concerned.

The petition stands allowed.

(JITENDRA CHAUHAN)
JUDGE

April 24, 2017
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No