

CRM-M-14384-2018 &
CRM-M-36708-2018

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

(1) CRM-M-14384-2018

Ankit

...Petitioner

Versus

State of Haryana

...Respondent

(2) CRM-M-36708-2018

Manjeet

...Petitioner

Versus

State of Haryana

...Respondent

Date of decision:-27.9.2018

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Kanwaljit Singh, Sr.Advocate with
Mr.Abhishek Bajaj, Advocate
for the petitioner in CRM-M-14384-2018.

Mr.Vijay Kumar Sheoran, Advocate
for the petitioner in CRM-M-36708-2018.

Mr.Neeraj Poswal, AAG, Haryana.

Mr.Balkar Singh, Advocate
for the complainant.

H.S. MADAAN, J.

By this order, I shall dispose of two petitions i.e. CRM-M-14384-2018 filed by petitioner – accused - Ankit and CRM-M-36708-2018 filed by petitioner - accused – Manjeet for grant of regular bail in case FIR No.465 dated 23.11.2017, under Sections 147, 148, 149, 294, 323, 341, 354, 379-B, 427 and 506 IPC and later on Sections 307/325 IPC added on 13.2.2018, registered at Police Station City, Dadri, District Charkhi Dadri.

Briefly stated, the facts of the case, as per the prosecution version, are that criminal machinery in this case was set into motion by complainant Anil Sindhu son of Raj Mal Mokhra, resident of Ward No.16 behind K.I.N. Senior Secondary School, Dhikada Road, Charkhi Dadri, who in his statement made to the police on 23.11.2017 stated that on 22.11.2017, there was a *SHAGUN* and *GHURCHARI* ceremony of his uncle Rajbir son of Baldev Singh; that he along with his family members and other relatives had gone to attend those ceremonies; while performing *GHURCHARI* ceremony, when the assembly of relatives and friends was going towards Ward No.21 to pay homage at Baba Hari Om Mandir, 25-30 youngsters under the influence of liquor started making indecent gestures towards their ladies using filthy language. According to the complainant, when they tried to counsel them not to do so, they became angry and attacked them with *lathies*, *dandas*, iron rods and *jellies* etc. causing injuries to his father Rajmal, brother Rajesh, *BHABHI* Mausam, cousin brother Ravi and uncle Balwan and thereafter, ran away from the

spot. In his said statement, he stated that while the injured were being taken to hospital, the assailants again arrived there riding vehicles intercepted them and caused injuries to Vikas and Jogender holding out threats to kill them and they also snatched his gold ring, gold chain and two mobile phones.

After registration of the FIR, the investigation in the case started. On receipt of medical opinion, offences under Sections 307/325 IPC were added in the FIR on 13.2.2018. Accused Pardeep, Satbir, Sachin, Nitya Nand, Ankit, Vikram, Rahul @ Monu were arrested in this case and weapons used in the incident as well as Safari vehicle in which the assailants had come were recovered. On completion of investigation, challan has been filed against the above-named accused in the Court on 16.3.2018, whereas as regards other accused, namely, Amit son of Chand Singh, Bantu son of Jagan, Manjeet son of Ram Kishan proceedings for declaring them proclaimed offenders were initiated. Petitioner/accused Manjeet was arrested on 11.4.2018, whereas Mahesh @ Bantu, Ankit @ Kalia and Yogesh @ Totu were arrested on 15.5.2018. Supplementary challan against the present petitioner Manjeet and his co-accused has been filed in the Court on 4.7.2018. They have been charge-sheeted and now the case is fixed for prosecution evidence. Though not named in the FIR, the name of petitioner Manjeet cropped up in the disclosure statement of co-accused Ankit.

Both the petitioners had filed petitions for grant of regular bail in the Court of Sessions but were unsuccessful there, as such, they have approached this Court with the same request.

Notice of the petitions was given to respondent – State and counsel representing the State has put in appearance. The complainant has also appeared through counsel.

I have heard learned counsel for the parties besides going through the record.

First taking up petition of petitioner Manjeet. Learned counsel for such petitioner has contended that he is not named in the FIR, rather his name figured in the disclosure statement of co-accused Ankit recorded on 11.4.2018 i.e. after more than four months of the incident, who was also arrested on 11.4.2018 and such disclosure statement is not admissible in evidence; that no specific injury has been attributed to petitioner Manjeet and no weapon has been recovered from him; that he has been falsely involved in this case by complainant in connivance with police after 140 days of the incident and that out of eight injured, injured Joginder son of Jagdish, who as per prosecution case had suffered an injury, which was dangerous to life has furnished an affidavit that petitioner Manjeet was not involved in the incident, therefore, he be granted concession of regular bail.

Whereas, learned State counsel as well as learned counsel for the complainant have opposed the request vehemently.

After hearing the rival contentions, I find that the submissions made by learned counsel for the petitioner are devoid of any merit. Merely because petitioner Manjeet is not named in the FIR does not result in giving any advantage to him since FIR is not a substantive piece of evidence and its only purpose is to set the criminal machinery in

motion. FIR is often lodged in hurry and it may not contain the minute and precise details of the incident. The FIR can be got registered by a person, who may not be an eye-witness of the incident. It is only during investigation of the case that police can come to know about the culprits, who had committed the crime. Merely for the reason that accused is not named in the FIR does not result in causing any dent in the prosecution story.

In this case the co-accused (petitioner Ankit) of the petitioner Manjeet had suffered a disclosure statement naming petitioner Manjeet as one of the assailants. The contention that such statement is inadmissible may be having some merit when guilt of the accused is to be seen during the trial but for the purpose of providing lead in the investigation, it can certainly be looked into.

Section 30 of the Indian Evidence Act provides that when more persons than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and some other of such persons is proved, the Court may take into consideration such confession as against such other person as well as against the person who makes such confession. In that way, under such circumstances confession becomes admissible in evidence.

As far as the submission that no specific injury has been attributed to the petitioner Manjeet and no weapon has been recovered from him, there are eight injured in the incident. When the blows are raining by several assailants attacking various persons simultaneously, it is very difficult to remember as to which blow had been given by which

assailant and to whom. Since the petitioner Manjeet had been arrested after 140 days of the incident, it is quite possible that he had hidden or destroyed the weapon used by him in the incident. Therefore, non-recovery of weapon from him does not dilute his guilt.

As far as injured Joginder furnishing an affidavit giving clean chit to petitioner Manjeet that is not of much significance since there are eight injured persons in total and one of the injured person stating that petitioner Manjeet was not involved in the incident does not absolve him of the crime committed by him. As per the prosecution story a mob comprising several assailants including the petitioner Manjeet had attacked members of complainant party causing injuries to as many as eight persons, in that eventuality every member of the unlawful assembly is to be taken as equally responsible and guilty for the injuries caused irrespective of the fact that some other member of the unlawful assembly had actually caused such injuries.

Regarding petitioner/accused Ankit, he during the course of interrogation by the police had admitted having snatched gold chain in the incident and taking part in the incident. Learned counsel representing him has also advanced arguments on the same lines as has been done on behalf of petitioner Manjeet, which have already been dealt with above.

The challan has since been filed. The trial is going on, which is likely to be concluded in near future. The apprehension expressed by the State counsel that if petitioners are granted bail, there is every likelihood to their absconding and even trying to tamper with the prosecution evidence cannot be brushed aside lightly.

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Therefore, finding no merit in the petitions, the same stand
dismissed.

27.9.2018
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(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No