

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

213

CRM-M-26145-2018

Date of Decision: October 11, 2018

Shammi

.....Petitioner(s)

versus

State of Punjab

.....Respondent(s)

213/2

CRM-M-26156-2018

Vishal Sabharwal and others

.....Petitioner(s)

versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Ms. Poonam Tara Prasher, Advocate for the petitioners.

Mr. Kirat Singh Sidhu, DAG, Punjab.

Mr. Rahul Bhargava, Advocate for the complainant

Sudhir Mittal, J. (Oral)

This order shall dispose of **CRM-M-26145 of 2018** and **CRM-M-26156-2018**, as both of them arise out of the same FIR.

2. FIR No.238, dated 23.05.2018 was registered at Police Station Civil Lines, District Amritsar, under sections 326, 324, 323, 341, 506, 148, 149 IPC and section 307 IPC added later on. Hence the aforementioned petitions have been filed for grant of anticipatory bail.

3. Learned counsel representing the petitioners submits that a total of 6 injuries have allegedly been inflicted upon the complainant. Out of these injuries,

five are simple in nature. One injury has been declared grievous but the same is on non-vital part of the body i.e. right fore-arm. A head injury sustained by the complainant is simple in nature. None of the injuries received by the complainant can be said to be dangerous to life and thus, offence under section 307 IPC is not made out. Further, the CCTV footage recovered by the Police does not show accused-Shammi to be armed with a pistol and thus, allegation in this regard is false. The petitioners have joined investigation pursuant to the interim bail granted by this Court and therefore, they are entitled to confirmation of interim protection.

4. Learned State counsel submits that the CCTV footage shows that the accused person were armed with *datar* and that they intended to kill the complainant. Accused-Shami was armed with a pistol although the same is not visible in the CCTV footage. The *datars* used by accused persons have been recovered but the pistol in possession of accused-Shammi has still not been recovered. The petitioners have joined investigation.

5. Learned counsel for the complainant vehemently opposes the grant of anticipatory bail. It is submitted that the accused persons are operating as a gang and whenever a tender is floated, they attack and terrorize the persons, who apply for the same. A murderous assault has been launched on the complainant and thus, the petitioners do not deserve to be released on anticipatory bail.

6. It is not disputed that pursuant to the interim bail granted by this Court, the petitioners have joined investigation. Recoveries have also been effected although it is claimed that accused-Shammi has not yet got a pistol recovered. Whether he was armed with pistol or not, is still not clear. The CCTV footage does not support the prosecution version. In case, section 307 IPC is attracted in the facts and circumstances of this case, the petitioners shall be suitably punished after the

trial. At this stage, since the petitioners have joined investigation and are co-operating therewith, I deem it appropriate to confirm the order of interim bail.

7. Accordingly, the petitions are allowed and the interim bail granted to the petitioners vide order dated 19.07.2018, is made absolute subject to their compliance of conditions enshrined under Section 438(2) Cr.P.C.

8. A photocopy of this order be placed on the file of other connected case.

October 11, 2018
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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned	:	Yes
Whether Reportable	:	No