

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1) CRM-M No.41578 of 2017 (O&M)
Date of decision : 8.3.2018

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Shebal Gaur

.....Petitioner

vs.

State of Haryana

.....Respondents

2) CRM-M No.48534 of 2017 (O&M)

...

Rajnish Gaur

.....Petitioner

vs.

State of Haryana

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. N.P. Bhardwaj, Advocate
for the petitioner(s).

Mr. Gaurav Bansal, Assistant Advocate General,
Haryana.

Mr. Davinder Kumar, Advocate for the complainant.

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H. S. Madaan, J.

Vide this order, I intend to dispose of two petitions bearing CRM-M-41578 of 2017 and CRM-M-48534 of 2017, as both these petitions have arisen out of the same FIR.

Both these petitions for grant of pre-arrest bail have been filed by Shebal Gaur and his father Rajnish Gaur, both of them being accused in FIR No. 371 dated 26.9.2017, for offences under Sections 148, 149, 323, 325, 452, 506 IPC registered at Police Station Farakpur, District Yamuna Nagar.

Briefly stated, facts of the case as per the prosecution story are that the FIR in question was lodged by complainant Ashok Bali s/o Sh. Avnash Bali, r/o B-6/1353, Modern Colony, ITI, Yamuna Nagar, who in his statement made to the police on 23.9.2017 stated that he is a practicing Advocate at District Court, Jagadhri and that on 22.9.2017 at 5.45 P.M. when he returned home from the Court Complex, Shebal Gaur residing in his neighbourhood with whom he has strained relations, alongwith his brother, mother and two other unknown boys armed with dandas and bindas, trespassed into his house, after breaking the door. However, he did not come out, whereas wife of the complainant came out at which the assailants misbehaved with her and pushed her and she fell down. When wife of the complainant protested, her shirt was torn off. That the assailants inflicted danda blows on the person of the complainant. He was dragged and taken into the street. Shebal Gaur attacked upon the complainant and Rajnish Gaur inflicted danda blows on his leg. Complainant raised an alarm, which attracted his father, sister, nephew, who when tried to rescue the complainant from the assailants, but they were also caused injuries by the assailants. The injured were taken to the Civil Hospital, where they were medically examined. Earlier only a DDR was recorded, however, after

verification of the facts, the instant case was registered on 26.9.2017. From the X-Ray report of injured Rupesh Kumar, it came out that he had suffered a fracture.

Apprehending their arrest, the accused – petitioners Shebal Gaur and Rajnish Gaur had approached the Court of Sessions by way of filing separate petitions for pre-arrest bail, which were marked to the Additional Sessions Judge, Yamuna Nagar at Jagadhri, who vide separate judgments dated 27.10.2017 and 12.12.2017, respectively, dismissed the petitions, as such the petitioners have approached this Court craving for the grant of similar relief, which is being opposed by the learned State counsel, as well as learned counsel appearing for the complainant.

I have heard, learned counsel for the petitioners, learned State counsel as well as learned counsel for the complainant, besides going through the record.

Of the offences for which the petitioners have been booked, only offences under Sections 452 and 506 IPC are non-bailable, the latter Section has been made non-bailable in the State of Haryana. There is a counter version of the incident also, set up by the accused, in which the petitioner Shebal Gaur is stated to have received six injuries. Copy of his MLR has been attached, though regarding the said counter version no action has been taken by the police, but then MLR of Shebal Gaur dated 22.9.2017 having six injuries cannot be totally ignored. The petitioner Shebal Gaur is stated to be a practicing Advocate and his father Rajnish Gaur an old man of 61 years. Both of them have joined the investigation in terms of the

orders passed by this Court while granting them interim bail. The danda used in the incident is also stated to have been recovered. The complainant and the petitioners accused are stated to be neighbours having strained relations. Keeping in view the facts and circumstances of the case, I am of the view that custodial interrogation of the petitioners is not required and it would be proper and appropriate to grant pre-arrest bail to them.

Therefore, interim bail granted to petitioner Shebal Gaur vide order dated 3.11.2017 and interim bail granted to petitioner Rajnish Gaur vide order dated 19.12.2017 passed by this Court, are made absolute, subject to fulfillment of conditions envisaged under Section 438(2) Cr.P.C.

The petitions in that way are allowed.

It is made clear, that in case the petitioners are found to be indulging in any criminal activity, after being granted bail vide this order, the order shall be liable to be withdrawn.

8.3.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No