

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Decided on: 16.05.2019

1. CRM-M No.62007 of 2018

Umesh Jain and another

....Petitioners

Versus

State of Haryana

....Respondent

2. CRM-M No.2231 of 2019

Ashok Kumar

....Petitioner

Versus

State of Haryana

....Respondent

3. CRM-M No.1956 of 2019

Anil Jain

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Karan Pathak, Advocate
for the petitioners (in CRM-M No.62007 of 2018
and in CRM-M No.1956 of 2019)

Mr. Rohiteswar Singh, Advocate
for the petitioner (in CRM-M No.2231 of 2019)

Mr. Naveen Sheoran, DAG, Haryana.

Mr. Raj Kumar Holkaia Choudhary, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

Vide this common order, I intend to dispose of

the aforesaid 03 criminal miscellaneous petitions as common questions of law and facts are involved for adjudication.

The petitioners (in CRM-M No.62007 of 2018 and CRM-M No.1956 of 2019) prays for grant of anticipatory bail in FIR No.487 dated 23.11.2018 registered under Sections 323, 325, 452, 506, 34 of the Indian Penal Code (in short 'IPC') and 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station Faridabad, NIT, District Faridabad.

On the other hand, the petitioner – Ashok Kumar (in CRM-M No.2231 of 2019) prays for cancellation of bail granted to respondents No.3 and 4 in the aforesaid FIR No.487 dated 23.11.2018.

Brief facts of the case are that on 22.11.2018 at about 08:00 PM, when the complainant – Ashok Kumar was standing at the gate of his house, his neighbourers along with Anil Jain and Sanjay Jain came to his house and entered therein and thereafter, started beating him with iron rod, fists and kicks. Anil Jain gave iron rod blow in his right leg, due to which he fell down. Anil Jain also hurled abuses and caste remarks. Thereafter, while they were going, they threatened the complainant to teach him a lesson as and when get a chance. On the aforesaid

allegations, FIR No.487 dated 23.11.2018 under Sections 323, 325, 452, 506, 34 IPC and 3 of the SC&ST Act has been registered at Police Station Faridabad, NIT, District Faridabad.

On 21.12.2018, the following order was passed by this Court (in CRM-M No.62007 of 2018):-

“...Learned senior counsel for the petitioners submits that as per allegations in the FIR, the complainant was standing outside his house and the petitioners along with other neighbours entered his house and starting giving him beatings and abused him in the name of his caste. It is further submitted that in fact there is delay of 01 day in lodging the complaint with the police and the complainant has declared before the Medical Officer, Surya Ortho and Trauma Centre, NIT Faridabad that he has met with an accident. Learned senior counsel further submits that even the governing body of the Residents Welfare Association, where the incident has occurred, has verified the fact that no such incident of abusing the complainant regarding his caste has happened.

Notice of motion for 18.03.2019....”

Thereafter, reply by way of affidavit of the Assistant Commissioner of Police, NIT, Faridabad was filed and it was directed that a fresh affidavit dealing with the contention raised by counsel for the petitioner be filed and

thereafter, another affidavit dated 22.04.2019 has been filed in the Court, which is on record.

Para 3 to 6 of the affidavit dated 22.04.2019, are reproduced as under:-

"3. That in pursuance of the direction dated 18.3.2019 of this Hon'ble High Court, undersigned associated the following persons in investigation namely Kuldeep Singh, Satish Singhal, Kailash Sharma, Arvind Soni, Neeraj, who are neighbour of both side parties and joined in investigation on 09.04.2019 and 10.04.2019, respectively. During the investigation statement of said persons were recorded. After verified facts from them which reveals that on 22.11.2018 in the evening when they reached there and saw that the complainant was sitting on the ramp in injured condition. Sanjay Jain and his friend Sumit Bhardwaj took him to hospital for providing medical treatment. However as per statement of Sh. Bhagwati Parshad Somsthem Chairman of Governing Body Residents Welfare Association of Indira Enclave Sector-21 D, Faridabad reveals that Ashok sustained injury in accident fallen from motorcycle.

4. That on 06.04.2019, the undersigned issued notice to the Governing Body/Chairman Welfare Association of Indira Enclave Sector-21 D, Faridabad directed him to appear in investigation and record his statement regarding dispute taken place in this matter on 08.04.2019 but despite the notice received by him, though

the Chairman had recorded his statement. As per report dated 16.04.2019 which was received on 22.04.2019 and gone through that little bit heat exchanges of works were taken place between Ashok Kumar and Sanjay i.e. is because the family children of Jain family were playing badminton in the street and shuttle cock entered in the house of Ashok when the daughter of Umesh Jain, Komal knocked the door of Ashok, he started quarreling with her and abused her with obscenities language. Rather it was Sanjay mistake that he did not file complaint against Ashok but he try to solve the matter. In facts, I am of the view that quarrel between the Ashok Kumar and petitioners taken place there.

5. *That I had also joined the Dr. Rakesh Mehta, M.S. Ortho, Surya Ortho & Trauma Centre 5R/5 NIT Faridabad in investigation on 08.04.2019 and facts of this case were got verified from him. After verified facts from Doctor Dr. Rakesh Mehta reveals that petitioner Sanjay Jain & his friend Sumit Bhardwaj brought Ashok in injured condition in hospital for providing medical aid. The doctor further told that the persons who brought the injured Ashok stated that injury sustained due to accidentally fallen from motorcycle and injured Ashok was unconscious at that time. After providing medical treatment they took away the injured person Ashok in their Wagon-R car. After verified facts from them including doctor, who examined the injured*

persons that injured sustained injury neither from accidental fall from ramp nor it was from fallen to motorcycle in this matter.

6. During the investigation statement of Mani Ram & Supplementary statement of Ashok injured were recorded in this matter. Facts further arrived on the record that the person's name in representation are not member of the Governing Body Residents Welfare Association of Indira Enclave Sector-21 D Faridabad and they are neighbour of both side of the parties."

Counsel for the petitioner(s) has submitted that the petitioners have joined the investigation and are no more required for further investigation.

Counsel for the State, on instructions from ASI Dharampal, has not disputed the factual position and submits that the petitioners have joined the investigation and are no more required for further investigation.

Counsel appearing for the complainant, who has also filed separate petition seeking cancellation of anticipatory bail has, however, argued that the persons named in the certificate relied upon by the petitioner are not the office bearers of the Residents Welfare Society and therefore, the petitioners have obtained the interim order by relying upon a false documents.

As noticed above, on 18.03.2019, the Assistant

Commissioner of Police, NIT, Faridabad was directed to file a specific affidavit about this fact and the affidavit dated 29.04.2019 is self-speaking as noticed above.

In view of the above, I find no ground to cancel the bail of respondents No.3 and 4 and the said petition (in CRM-M No.2231 of 2019) is accordingly dismissed.

However, the petitions (CRM-M Nos.62007 of 2018 and No.1956 of 2019) are allowed and the interim order dated 21.12.2018 (passed in CRM-M No.62007 of 2018) and dated 17.01.2019 (passed in CRM-M No.1956 of 2019) are made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

(ARVIND SINGH SANGWAN)
JUDGE

16.05.2019
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No