

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

Date of Decision: November 09, 2020

1. **CRM-M-15773-2020 (O&M)**

Akash @ Giyani

...Petitioner

Versus

State of U.T.Chandigarh

...Respondent

2. **CRM-M-16376-2020 (O&M)**

Hritik alias Ritik

...Petitioner

Versus

State of U.T.Chandigarh

...Respondent

3. **CRM-M-17740-2020**

Akash @ Giyani & others

...Petitioners

Versus

State of U.T.Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Vikrant Nanda, Advocate,
for the petitioners in CRM-M-15773-2020 &
CRM-M-16376-2020

None for the petitioner in CRM-M-17740-2020.

Mr. Sumit Jain, Addl.P.P. For U.T.Chandigarh

MANOJ BAJAJ, J. (Oral)

Akash @ Giyani and Hritik @ Ritik (accused persons) have separately filed the above mentioned first two petitions under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.34 dated 27.02.2020, under Sections 307 read with Section 34 IPC, registered at Police Station, Sector 31, Chandigarh. The third petition bearing No.CRM-M No.17740 of 2020 has been filed jointly along with co-accused Karan for quashing of the FIR (Annexure P-1) on the basis of the compromise dated 30.06.2020 (Annexure P-2).

The above FIR was registered on the statement of complainant-Neeraj, wherein it was stated that he was working as office boy in the office of HDFC Security, Sector 11, Panchkula. On the date of occurrence, after completing his work, he reached his house and after leaving motor cycle at his house, left for the house of his friend. They were going for some personal work at Sector 29 on motor cycle and when he reached near Government School, Hallomajra, he stopped his motor cycle near Mobile Phone Cover Shop to inquire about some mobile phone covers. In the meanwhile, one boy, namely, Sahil, came there at about 6.00 p.m. and started threatening that two months back, you fought with his brother and compromised the matter, but now he will teach him a lesson. The complainant tried to persuade him, but he started beating him and ran away from the spot. After sometime, he again came with his friends Gyani alias Akash, Man, Ritik, Kama, Sahil, Suraj, Deepak, Faisal and others. Karan stabbed Neeraj and his brother Vishal, who had also arrived at the spot and gave them beatings with iron punch. On these broad allegations, the above FIR was registered.

Learned counsel for the petitioners contends that the

investigation of the case is complete and trial is not making any progress and, therefore, further custody of the petitioners may not be necessary. He has further relied upon the compromise dated 30.06.2020 (Annexure P-2) annexed with CRM-M-16398-2020 and prays for bail as well as for quashing of the above FIR.

On the other hand, the prayer is opposed by the learned counsel for U.T.Chandigarh on the ground that the offence is serious. He has referred the contents of reply filed by way of affidavit of Inspector Paramjit Kaur Sekhon to highlight the injuries suffered by the victims. According to him, the assailants had attacked the victims to take revenge of previous dispute. He has further argued that the accused persons had planned the attack and caused serious injuries upon the victims with knife and other dangerous weapons.

After hearing the learned counsel for the parties, this Court finds that in the alleged occurrence, six injuries were suffered by complainant, whereas his brother suffered two injuries. Most of the injuries have been caused with the sharp edged weapons and the recoveries were also made during the investigation from the accused persons. Though the investigation of the case is complete as the final report was filed on 14.04.2020, but the trial is yet to commence. Further, this Court finds that the reliance placed upon the compromise dated 30.06.2020 by the petitioners is misplaced in view of the decision of the Hon'ble Supreme Court delivered in **The State of Madhya Pradesh Versus Laxmi Narayan and others**, 2019 AIR (SC) 1296. The relevant portion of the judgment reads as under:-

“13. Considering the law on the point and the other decisions of this Court on the point, referred to here-in-above, it is

observed and held as under:-

i) that the power conferred under [Section 482](#) of the Code to quash the criminal proceedings for the non-compoundable offences under [Section 320](#) of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

ii) such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

iii) similarly, such power is not to be exercised for the offences under the special statutes like [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

iv) offences under [Section 307](#) IPC and the [Arms Act](#) etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under [Section 307](#) IPC and/or the [Arms Act](#) etc. which have a serious impact on the society cannot be quashed in exercise of powers under [Section 482](#) of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of [Section 307](#) IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of [Section 307](#) IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge

under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

v) while exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impart on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.”

Adverting to the facts of this case, as per prosecution, the petitioners were armed with dangerous weapons and caused serious injuries to the complainant and his brother, therefore, this Court does not find it to be a fit case for granting the concession of regular bail to the accused persons, namely, Akash @ Giyani and Hritik @ Ritik. Resultantly, CRM-M Nos.15773 and 16376 of 2020 are dismissed.

Since the sole ground of compromise raised in the petition for

quashing the FIR, has been rejected, resultantly, CRM-M-17740-2020 also fails and is dismissed.

November 09, 2020
ramesh

(MANOJ BAJAJ)
JUDGE

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