

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

CRM-M-18809 of 2020

Date of Decision : July 30, 2020

Mahesh and another

..... PETITIONER(S)

VERSUS

State of Haryana

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Ashish Gupta, Advocate, for the petitioners.
 Mr. Deepak Bhardwaj, Deputy Advocate General, Haryana.

...

Sanjay Kumar, J.

The two petitioners are arrayed amongst the accused in FIR No. 109 dated 22.05.2020 on the file of Police Station Nagina, District Nuh, registered under Sections 148, 149, 323, 324, 506, 188 IPC. By way of this petition, they seek anticipatory bail.

The petitioners claimed that there was an altercation between two groups. According to them, the complainant in the subject FIR misbehaved with Laxmi, wife of Sanjay, an accused in the subject FIR, but the police did not choose to take any action on her complaint. The material placed on record indicated that the complaint (Annexure P-5) made by Laxmi, wife of Sanjay, was received by Head Constable Jeet Ram.

Shri Chanderpal, Deputy Superintendent of Police, Firojpur

Jhirka, District Nuh, filed a reply on behalf of the State in the first instance. Therein, he curiously steered clear of the Annexure P-5 complaint and stated to the effect that the petitioners were not entitled to relief in this bail petition as all the accused were absconding.

Finding this reply to be wholly inadequate, as it made no mention of the complaint (Annexure P-5) made by Laxmi, wife of Sanjay, this Court directed the Superintendent of Police, District Nuh, to file an additional reply.

In consequence, Shri Narendra Bijarniya, Superintendent of Police, Nuh, filed an affidavit stating that the case file was summoned by him from Police Station, Nagina, and upon perusal of the complaint (Annexure P-5), FIR No. 162 dated 24.07.2020 was registered on the file of Police Station, Nagina, under Sections 354-A, 323, 506 and 34 IPC. He further stated that the erring police officials *viz.* Head Constable Sunil Kumar and Head Constable Jeet Ram, were suspended and a regular departmental inquiry was initiated against them. The affidavit however does not disclose as to why the Deputy Superintendent of Police, Firojpur Jhirka, District Nuh, had filed a one-sided reply earlier, completely ignoring the complaint (Annexure P-5).

Mr. Deepak Bhardwaj, learned Deputy Advocate General, Haryana, would inform this Court, on the strength of the instructions given by Inspector Krishan Kumar, that the police are in the process of adding Section 326 IPC to the subject FIR on the basis of the medical report.

Be that as it may.

As matters stand, two cross FIRs have now been registered and it is for the police to undertake an impartial investigation and inquiry into the same. Unfortunately, the conduct of the police, as evidenced by the facts narrated *supra*, does not inspire confidence in this regard. The bias shown against the petitioners and the other accused in the subject FIR is writ large. It was only due to the intervention of the District Superintendent of Police at the instance of this Court that another FIR has now been registered. In such circumstances, this Court is of the opinion that custodial interrogation of the petitioners would not be desirable. It would be sufficient if they join investigation and co-operate with the police authorities.

The petition is accordingly allowed. The petitioners shall forthwith join investigation in FIR No. 109 dated 22.05.2020 on the file of Police Station Nagina, District Nuh. In the event of their arrest in connection with this FIR, the petitioners shall be enlarged on bail upon furnishing personal bonds for a sum of ₹ 20,000/- each along with two sureties for a like sum each to the satisfaction of the Arresting/Investigating Officer. In such an event, the petitioners shall also abide by the conditions prescribed in Section 438(2) Cr.P.C.

July 30, 2020
Kang

(Sanjay Kumar)
Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No