

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-19883 of 2020 (O&M)
Date of decision : July 29, 2020

Prince and others

....Petitioners

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. SS Dinarpur, Advocate, for the petitioners

Mr. Baljinder Virk, DAG Haryana for the State

Mr. Sanjay Verma, Advocate, for the complainant

Fateh Deep Singh, J. (Oral)

The matter has been taken up through Video-conferencing on account of outbreak of pandemic COVID-19.

Petitioners Prince, Rajat Kumar Raju and Ishan @ Ishran @ Laddi have come up in this first anticipatory bail application under Section 438 in case FIR No. 100 dated 15.5.2020 under Sections 323, 324, 325, 341, 506, 120-B IPC, PS Chhachhrauli (Offence under Section 326 IPC added later on) District Yamuna Nagar.

The present case was got registered on the statement of complainant Lalit Kumar alleging that on 14.5.2020 around 6.45 PM, while after closing of shop he was going on his motorcycle No. HR71-3573 along with valuables from his shop comprising of gold etc. and when he reached near the cremation ground of village Kot Majri, three young boys standing on a motorcycle came and stopped the complainant out of whom one Inderjeet was armed with a kirpan and gave a kirpan blow on the left side of forehead of the complainant while another boy Rajat son of Naresh non-applicant who was armed with a danda gave a blow hitting on the left side of the face near eye and thereafter the complainant fell down and the third boy Aslam who was armed with an iron rod gave a blow hitting on the nose of the complainant. While the complainant was lying on the ground, the accused snatched his bag and thereafter ran away.

Mr. SS Dinarpur, learned counsel for the petitioners inter-alia contends that the petitioners are not named in the FIR and only semblance of evidence against them is statement of co-accused Inderjeet recorded on 16.5.2020 and that nothing is to be recovered from them.

Mr. Baljinder Virk, DAG Haryana assisted by Mr. Sanjay

Verma, counsel for the complainant, after getting instructions have fairly conceded the fact that the names of the petitioners does not figure in the FIR but have sought to reiterate that the injured has suffered a serious injury on his eye and has been operated and there is every likelihood that he would loose his eye sight. Learned State counsel has sought to claim that it was on the statement of Inderjeet co-accused, the names of the petitioners has come in evidence.

Going through the submissions, it is fairly conceded that the petitioners are not named in the FIR nor any role is attributed to them in the commission of offence. The only evidence which has been brought to the notice of this Court is statement of co-accused Inderjeet. The legality and validity of such a statement is subject to trial. Since nothing is attributed to the petitioners and there is no cause for their custodial interrogation, it would be traversery of justice to send them behind the bars.

In view of the aforesaid, the present petition is allowed. In the event of arrest, the petitioners shall be released on interim bail to the satisfaction of arresting/investigating officer till submission of report under section 173 Cr.P.C. (challan). The petitioners shall, however, join the investigation as and when called for and shall also

abide by the conditions specified under section 438 (2) Cr.P.C. Thereafter, on presentation of challan, the petitioner will be permitted to furnish regular bail bonds to the satisfaction of the trial Court. Presently, the petitioners are directed to join investigation within 15 days days of the receipt of the copy of order.

The present petition stands disposed of.

July 29, 2020
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No