

S.No.102

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

CRM-M-27880 of 2020 (O&M)

Date of Decision:15.09.2020

Ajay Kumar and others

.....Petitioners

Vs.

State of Haryana

.....Respondent

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IN VIRTUAL COURT

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CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Krishan Singh, Advocate for the petitioners.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed by the petitioners under Section 438 Cr.P.C for grant of anticipatory bail in case FIR No.93 dated 19.06.2020 registered under Sections 148, 149, 323, 325, 427, 452, 506 IPC at Police Station Sadhaura, District Yamuna Nagar.

The brief allegations, as contained in the FIR are that the complainant Maya Ram made a statement before the Police that on 20.05.2020, at about 1:00 p.m., when he was taking his meal then a stone hit on the window of his house from the road side. Upon this, the complainant opened the door of his house and saw that many boys were standing inside the precincts of his house with rods, swords, and dandas in their hands.

They caused damage to the cars and motor-cycle which were standing

inside the house. When the complainant came out of the house, he saw the petitioner No.1 – Ajay Kumar, who was having rod in his hand. On seeing the complainant, the petitioner No.1- Ajay Kumar gave a rod blow on left leg of the complainant. The other accused also tried to attack him with gandasi but the wife of the complainant dragged him inside the house. Even thereafter, those boys kept on hitting the door of the house of the petitioner by threatening him with dire consequences. With these allegations, the FIR came into being.

It is submitted by counsel for the petitioners that the case against the petitioners is totally concocted. In fact, petitioner No.1 is a witness in a murder case; which the side of the present complainant is facing. Still further, it is submitted that on the same day, the side of the complainant had entered into the house of petitioner No.1 and had outraged the modesty of his mother. On that count, the side of the present complainant is facing FIR. Just to put a pressure upon the petitioner No.1, so as to make him not to depose as a witness in the murder trial and to force him to compromise the another case, the present FIR has been concocted. Still further, it is submitted that there are not even specific allegations against petitioners No.2 and 3. Hence, the petitioners deserve concession of anticipatory bail.

Notice of motion.

Mr. R.S. Jhand, Addl. AG, Haryana, accepts notice on behalf of the State.

Learned State Counsel, being instructed by Inspector Sukhbir Singh, has submitted that the petitioner No.1 is specifically named in the

case. The injury to the complainant has been attributed to petitioner No.1. The said injury has been found to be grievous in nature. Hence, the petitioner No.1 does not deserve any concession of anticipatory bail. Qua the assertion of the petitioners that the FIR is falsely recorded, it is submitted by learned State Counsel that all the three matters; involving the side of the petitioners and the complainant; have been transferred and now the same are being investigated by DSP Jagadhari. After investigation, obviously, only those persons shall be prosecuted against whom the charges are found to be sustainable. However, it is not disputed that there are no specific injuries attributed to petitioners No.2 and 3.

In view of the above, but without commenting upon merits of the case, the present petition qua petitioners No.2 and 3 is allowed. The petitioners No.2 and 3 are granted concession of anticipatory bail. Therefore, it is directed that in case of their arrest, the petitioners No.2 and 3 shall be released on bail subject to their furnishing bail bonds/ surety bonds to the satisfaction of Arresting/ Investigating Officer. However, it is further directed that the petitioners No.2 and 3 shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

However, so far as petitioner No.1 is concerned, there are specific allegations against him that he had trespassed into the house of the complainant and that he caused a grievous injury to the complainant. There is a fracture in the leg of the complainant due to the alleged blow caused by the petitioner No.1. Hence, this Court does not find any ex-facie innocence

on part of petitioner No.1 vis-a-vis allegations levelled against him. Moreover, since the grievous injury has been found on the person of the complainant, therefore, even the alleged weapon of offence is to be recovered by the Police. Hence, this Court does not find this to be an appropriate case to exercise its powers under Section 438 Cr.P.C so as to protect the petitioner No.1 against his arrest. Accordingly, the present petition is dismissed qua petitioner No.1.

September 15, 2020
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No