

**219/2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-34505-2020

Date of decision : 23.11.2020

VIVEK @ CHINNI

.....Petitioner

Vs.

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Abhimanyu Singh, Advocate, for the petitioner.

Ms. Dimple Jain, AAG, Haryana.

ALKA SARIN, J. (ORAL)

Heard through Video Conferencing.

This is a petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.76 dated 11.05.2020 under Sections 147, 148, 149, 307, 323 and 506 of Indian Penal Code, 1860 registered at Police Station, City Gurugram, District Gurugram.

The FIR has been registered on an application filed by the complainant that on 10.05.2020 at about 12.30 pm he along with his brother Pankaj, Sunny and Anil was standing near the house and about 20-25 boys came there and started an altercation with his brother, Pankaj. It is further alleged that Ankit along with his companions had beaten his brother Pankaj mercilessly with iron rods. Accused, Vicky, who had an iron rod also beat up Pankaj with the rod and when the complainant tried to rescue his brother the accused Rahul, Lukka, Hritik, Ranjit, Golu and Chinni (petitioner herein) and another 05-06 persons had threatened to kill them.

The injured was admitted in the hospital and on the basis of opinion Section 307, IPC was added in the FIR.

Learned counsel for the petitioner has contended that he has falsely been implicated in the case and that the co-accused Rahul and Rakesh have been released on bail.

Status report has been filed by way of an affidavit of Rajender Singh, HPS, Assistant Commissioner of Police, City Gurugram wherein it has been stated that on 19.09.2020 SI Atul Khan, Police Station, Gurugram got clarification regarding the injury sustained by the injured Pankaj, shown in the MLR 307 dated 10.05.2020, as to on which part of the body the injury was sustained by Pankaj. One Dr. Vikram Aryan of Aryan Hospital, Gurugram gave the details of the injuries sustained by Pankaj as follows:

- a) Hemorrhagic contusion right frontal region.
- b) Depressed fracture left parietal bone.
- c) Fracture left frontal lesser sphenoidsiness with hemosiness.
- d) Sah right frontal/temporal region with extra-dural blood left temporal region.
- e) Few hemorrhagic contusions in right perpetal region.
- f) Lacerated wound over scalp.

The role of the petitioner came forth in the disclosure statement of the accused Ankit, Vikram @ Vicky, Rakesh @ Rahul wherein it is stated that he had caught hold of the injured Pankaj while the others had given him the beatings. It has further been stated in the status report that there are three other cases pending against the petitioner, though under the Excise Act.

I have heard learned counsel for the parties.

A perusal of the MLR of the injured, which has been annexed with the status report, reveals that merciless beatings were given to the injured using iron rod/iron axe. The present petitioner herein is alleged to have been a part of the group which had beaten up the injured. Having formed a part of the unlawful assembly, which mercilessly beat up the injured, I do not deem this to be a fit case for grant of anticipatory bail.

Accordingly, the petition is dismissed. It is, however, made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

November 23, 2020
kv

(ALKA SARIN)
JUDGE

Whether speaking/non-speaking: Yes/No
Whether reportable: Yes/No