

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

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CRM-M-22364-2021

Date of Decision : June 07, 2021

NASEEM

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JASGURPREET SINGH PURI

Present : Mr. Munfaid Khan, Advocate
for the petitioner.

Through Video Conferencing

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in case FIR No. 0165 dated 28.10.2020, under Sections 148, 149, 323, 324, 506 IPC and later added Section 326 IPC, registered at Police Station Rozka Meo, District Nuh.

As per the FIR which was lodged by complainant, namely, Abdul Rajjak son of Kamal Khan by alleging that there are some trees in his fields and on 25.10.2020 at about 8'o clock, his nephew Junaid went to his fields and found that Naseem son of Lakhpat (petitioner) and Izhar son of Naseem have cut trees from his fields and when his nephew Junaid asked about the reasons for cutting the trees then Naseem (petitioner) by taking axe in his hand chased his nephew but his nephew for saving his life reached at his house. Thereafter at 9.30 a.m., all the accused by taking various weapons including Farsa, Iron pipe and Lathi reached at their house and started beating three buffalos and one child of buffalo which was tied outside his

house. Thereafter, they started pelting stones upon them and when the complainant had entered into their house to save their lives from pelting of stones, the accused entered the house and one of the accused, namely, Nasir gave farsa blow on left hand and on one finger and his one finger had cut completely. Thereafter, another two accused, namely, Irfan and Izhar gave lathi blows on his leg. The present petitioner, namely, Naseem gave iron pipe blow on the mouth of his wife, namely, Rukaya, who sustained grievous injury on her mouth. Thereafter another accused, namely, Talim gave lathi blows on Rukaya. Various other co-accused gave various types of blows with different weapons. The FIR was registered under Sections 148, 149, 323, 324 and 506 IPC and, thereafter, the offence under Section 326 IPC was added.

The learned counsel for the petitioner has submitted that even as per the FIR, allegedly the petitioner has given an iron pipe blow on the mouth of the wife of the complainant, namely, Rukaya and the grievous injury was not attributable to the petitioner and it was attributed to Nasir, who had given blow on the finger which was cut completely and consequently, Section 326 IPC was added. He has further submitted that no recovery is to be made from the petitioner and, therefore, he may be granted the concession of anticipatory bail.

Mr. Pawan Longia, DAG, Haryana has stated that he has received an advance copy of the petition and has also sought instructions in this regard. He submitted that it is a case where there was a gang attack and there are fourteen accused in the present FIR and all of them had collectively attacked the complainant, who ultimately sustained grievous injury. The State counsel has further submitted that the injury was on the mouth of

Rukaya and its dimension was 12x1 cm and 7x1 cm on the right side of the face. He submitted that it is not a case of one to one fight but was a case of gang attack and, therefore, the petitioner is not entitled for any concession of anticipatory bail. He further submitted that the FIR was lodged on 28.10.2020 and the petitioner is evading arrest for such a long time. He has submitted that the role attributed to the petitioner that he had given an iron pipe blow on the wife of the complainant and the said iron pipe is yet to be recovered from the petitioner who is absconding for about more than seven months. He further submitted that the custodial interrogation of the petitioner was required not only for the purpose of recovery of the weapon used but also with regard to the role of the other accused and the intention behind the same. He, therefore, opposed the grant of the anticipatory bail and has stated that the custodial interrogation of the petitioner was very much required in the present case.

I have heard the learned counsel for the parties.

As per the FIR, there was an alleged attack on the complainant by a group of persons including the petitioner. The role attributable to the petitioner as per FIR that he had given an iron pipe blow on the mouth of the wife of the complainant and she sustained grievous injury on her mouth. The argument raised by learned counsel for the petitioner that the offence under Section 326 IPC was not attributable to the petitioner because it was attributed to Nasir only, who gave farsa blow on the finger which was cut completely and is not sustainable particularly in view of the fact that it was a case of alleged gang attack by a group of persons and there are fourteen accused in the present case. A perusal of the FIR would shows that different types of roles with different weapons and, therefore, the argument of learned

counsel for the petitioner that offence under Section 326 IPC was not attributable to the petitioner is not sustainable. Since it was a case of gang attack such a plea will not be available to the petitioner. Further-more, there is specific role attributed to the petitioner in the FIR itself. The learned State counsel has specifically stated on instructions that the recovery of iron pipe is yet to be made from the petitioner, who is absconding for the last more than seven months and not only his own role but the role of the other accused is also to be ascertained and the same can be done by way of custodial interrogation only. The arguments raised by Ld. State counsel do carry weight.

In view of the above, I do not find any force in the argument raised by learned counsel for the petitioner and no case is made out for interference and grant of anticipatory bail.

Consequently, the present is, hereby, dismissed.

(JASGURPREET SINGH PURI)
JUDGE

June 07, 2021
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No