

CRM-M-25848-2021 (O&M)

THROUGH VIDEO CONFERENCE

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

**CRM-M-25848-2021 (O&M).
Decided on: July 20, 2021.**

Anurag

.. Petitioner

VERSUS

State of Haryana

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

PRESENT

**Mr.Sunil Chaudhary, Advocate,
for the petitioner.**

Mr.Naveen Singh Panwar, DAG, Haryana.

Mr.K.D.S.Hooda, Advocate, for the complainant.

JASGURPREET SINGH PURI, J.

Status report filed by way of affidavit of Mr.Virender Singh, HPS, Deputy Superintendent of Police, Bhiwani, Haryana, is taken on record.

The present petition has been filed under Section 438 of the Code of Criminal Procedure, seeking anticipatory bail in FIR No.337 dated 13.6.2021, under Sections 147, 148, 149, 323, 341 and 506 IPC, registered at Police Station Sadar, Bhiwani, District Bhiwani, Haryana.

As per the FIR lodged on the basis of statement of Sajmer son of Godhu Ram, he is working as mechanic of motorcycles

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repairing and on the fateful day after taking meal, he was on his way to his shop. In the meantime, he received a telephonic call from Nitesh son of Shamsher his brother who told him that when he had gone to Gaushala for taking Milk, Sudhir son of Yudhister, Abhimanyu son of Dilbag, Raj Singh son of Bharat Singh, Parveen son of Suraj Mal, Vishwamitra @ Anirudh son of Balbir and **Anurag (petitioner)** came near Gaushala, having lathi, iron rod, pipe and jelly and they all stopped his way and to save himself he entered into the house of one Anil. In the meantime, complainant Sajmer and one Amir who was working as an employee in the shop of Sajmer (complainant) also reached near Gaushala and found all the above six accused standing there. All the above six accused give beatings to them. As per FIR Anurag was having an iron rod and gave a blow of iron rod on the legs of the complainant and in the meanwhile, the brothers of the complainant namely Shamsher and Suresh also reached there and all the six accused persons also gave beatings to Shamsher and Suresh. It was on the intervention of the passersby that Shamsher and Suresh were rescued from the clutches of the accused. Accused Anurag (petitioner) criminally intimidated to kill the complainant and fled away from the place of occurrence. Thereafter, the injured were brought to Civil Hospital, Bhiwani, for treatment.

Learned counsel for the petitioner has submitted that it is a case where a cross fight took place and the petitioner was not at fault. He has referred to para 18 of the petition where it has been stated that about three years ago the petitioner was given beatings by the complainant

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Sajmer, his brother Shamsher Singh, Sahil son of Suresh and Nitesh son of Shamsher and an application was given by the petitioner in the Police Station, Sadar, Bhiwani and thereafter due to intervention of the respectables and Panchayat, the matter was compromised. Learned counsel for the petitioner has further submitted that the similarly situated co-accused namely Sudhir, Abhimanyu, Raj Singh and Anirudh @ Vishwas Mittar Singh have been granted interim bail by this Court vide CRM-M-24683-2021 and since the petitioner is on parity with all of them, he may also be granted the concession of anticipatory bail.

On the other hand, learned State counsel has submitted that it is a case where direct allegations have been attributable to the petitioner on the bare reading of the FIR itself. It has been mentioned in the FIR that the petitioner was having an iron rod and gave blow on the arms and leg of the complainant and thereafter he even intimidated to kill the complainant. Learned State counsel has further submitted that the case of the petitioner is not on parity with the other co-accused in view of the fact that no direct allegations have been attributable to the other co-accused in the FIR and that was the reason that other co-accused were granted interim bail. He has submitted that direct allegations have been attributable to the petitioner whereby he gave iron rod blows on the legs of the complainant which were fractured. He, while referring to the affidavit filed by the State, has submitted that during investigation on 17.6.2021, X-ray reports of the injured persons namely Sajmer, Shamsher and Ameer were obtained from General Hospital, Bhiwani and opinion of the concerned doctor was also

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obtained on 23.6.2021 regarding injuries in which doctor opined fracture in the hand of Shamsher and in both feet of injured Sajmer and in one foot of Ameer and also opined these as grievous in nature and accordingly Section 325 IPC was added during investigation on 29.6.2021, after finding cogent evidence against accused Parveen who was arrested in accordance with law. He suffered disclosure statement admitting his guilt of commission of offence along with other co-accused persons including the present petitioner. He further disclosed that while leaving the spot after giving beatings, the present petitioner also extended threat to life to injured persons and in pursuance of the disclosure statement, the aforesaid accused demarcated the place of occurrence and also got recovered one Bamboo Lathi. Copies of MLRs of the injured persons namely Sajmer, Shamsher and Ameer are also annexed with the reply as Annexures R1 to R3 respectively.

Learned State counsel has further submitted that so far as other accused namely Sudhir, Abhimanyu, Raj Singh and Anirudh @ Vishwas Mittar Singh are concerned, they have filed petitions for anticipatory bail before this Court and were granted interim bail. Thereafter, they were served notices on 8.7.2021 and 11.7.2021 to join investigation but even those four accused persons were hidden by their family members who refused to accept the notices and they did not join investigation and are playing hide and seek with the police and are not abiding by the order of this Court. Learned State counsel has further submitted that arrest of the petitioner is yet to be made and his custodial investigation is required in order to recover the weapons used in the commission of the offence. He has

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further submitted that there are specific allegations against the present petitioner to the effect that he gave iron rod blows on the leg of the complainant due which the complainant suffered fracture in his both legs and the petitioner also extended threats to kill the complainant and has actively participated in the crime. While referring to the affidavit filed by the State, it has been further submitted by the learned State counsel that there is every apprehension that the petitioner will flee from justice and may tamper with the evidence or hamper the investigation process and therefore, he has prayed for the dismissal of the present petition.

Learned counsel for the complainant has submitted that the petitioner is not on parity with other four co-accused who have been granted interim bail by this Court. He has submitted that both the legs of the complainant Sajmer have been fractured and fractures have also been caused to the other persons namely Shamsheer and Ameer which have been declared as grievous in nature and therefore, he has opposed the grant of anticipatory bail to the petitioner.

I have heard the learned counsel for the parties.

Whether the petitioner is not on parity with other four co-accused who have been granted interim protection requires to be considered by this Court. A perusal of the FIR as well as the affidavit filed by the State whereby investigation conducted has been detailed shows that the petitioner cannot be termed on parity with other four co-accused. Direct allegations have been attributable to the petitioner in the FIR that he has caused injuries to three persons and also caused fractures on both the legs of the

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complainant and other two persons. The other four co-accused were granted interim bail on the ground that although the allegations with regard to actively attacking were there but no injury was attributable to the other four co-accused and considering the same, this Court had granted interim bail to the other four co-accused. Therefore, the petitioner cannot be termed on parity with the other four co-accused. Furthermore, as per the affidavit filed by the State even those four persons who have been granted interim bail by this Court, as per para 5 of the affidavit, have not joined the investigation and rather their family members refused to accept the notices and they are playing hide and seek with the police. The argument raised by the learned counsel for the petitioner that three years ago, the petitioner was given beatings by the complainant, his brother and some other persons, would not become a ground for the grant of bail to the petitioner because the incident occurred three years ago and it is not related with the present incident.

Therefore, considering the totality of the circumstances, I do not deem it fit and proper to grant the concession of anticipatory bail to the petitioner and consequently, the present petition is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

July 20, 2021.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

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