

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-28406 of 2021

Date of Decision: 22.07.2021

Jaan Mohammad

Petitioner

Versus

State of Haryana

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Inderjeet Singh, Advocate for the petitioner.
Ms. Dimple Jain, AAG, Haryana.
Mr. Namit Khurana, Advocate for the complainant.

AVNEESH JHINGAN, J (Oral):

The matter is taken up for hearing through video conference due to COVID-19 situation.

This is a petition under Section 438 Cr.P.C. seeking anticipatory bail in FIR No. 129 dated 28.5.2021, under Sections 148, 149, 323 and 506 IPC and Section 307 IPC (added later on), registered at Police Station Sadaura, District Yamuna Nagar.

The FIR was at the behest of Sahreef Mohammad. As per the allegations, on 27.5.2021 at about 9.00 AM brother of the complainant made a call on the mobile of his son asking them to come to the fields to see the demarcation. The complainant along with his wife and son went to the fields, where Jaan Mohammad (petitioner), Mustakin, Dilshad, Itzar etc. were there. There was a discussion with regard to *rasta* (passage), the things heated up. The petitioner and Musatkin started abusing and scuffling

with the wife of the complainant. Musatkin gave a *gandasa* blow on the head of the complainant and the petitioner gave a lathi blow on the left arm of the complainant.

Learned counsel for the petitioner submits that the dispute relates to demarcation of the land. The injury attributed to the petitioner is simple in nature, the petitioner was armed with a lathi. Submission is that Section 307 IPC is invoked for an injury attributed to Musatkin.

Learned counsel for the State, appearing on advance notice on instructions from SI-Somnath Singh, opposes the grant of pre-arrest bail. She contends that the petitioner along with the co-accused inflicted injuries to the complainant. She on instructions submits that the petitioner has no criminal antecedents.

Though the complainant has not been impleaded as a party, Mr. Namit Khurana, Advocate puts in appearance on behalf of the complainant. He opposes the prayer for grant of anticipatory bail and submits that it was a pre-planned attack by the accused and specific injury is attributed to the petitioner.

The incident in the present case was a result of differences occurred during demarcation of the land. The root of the dispute was a passage to be provided. *Prima facie*, it does not appear to be a case of pre-planned attack as the affected parties are bound to be there when demarcation is being carried out. The injury attributed to the petitioner is simple in nature. It is not a case where custodial interrogation of the petitioner is required. Considering the facts and circumstances in totality, the petitioner is granted anticipatory bail subject to his joining

investigation within two weeks. In the event of his arrest, the petitioner shall be released on bail subject to his furnishing adequate bail bonds to the satisfaction of the Arresting Officer. He is directed to join the investigation as and when called for. He shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

The petition is allowed.

In case of failure of petitioner to join the investigation, the State would be at liberty to file an application for re-calling of this order.

[AVNEESH JHINGAN]
JUDGE

22nd July, 2021
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| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | Yes |