

**CRM-M-29583-2020;
CRM-M-17807-2021 &
CRM-M-30321-2021**

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218 (3 Cases)

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

(I)

**CRM-M-29583-2020
Date of Decision: 09.12.2021**

Ashutosh

..... Petitioner

Versus

State of Haryana

..... Respondent

(II)

CRM-M-17807-2021

Rohit Kumar Yadav

..... Petitioner

Versus

State of Haryana

..... Respondent

(III)

CRM-M-30321-2021

Ankit

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Sanjeev Kumar, Advocate,
for the petitioner (in CRM-M-29583-2020).

Mr. Aditya Yadav, Advocate,
for the petitioner (in CRM-M-17807-2021).

Mr. Vishal Yadav, Advocate,
for the petitioner (in CRM-M-30321-2021).

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

Mr. Parshant S.Chauhan, Advocate,
for the complainant.

SUDIP AHLUWALIA, J. (ORAL)

The petitioner, namely Ashutosh, in CRM-29583-2020 has prayed for grant of regular bail in connection with FIR No.471, dated 21.09.2018, under Sections 148, 149, 323, 325, 307/506 of the IPC (Section 302 of the IPC added later on), registered at Police Station Model Town, Rewari. The other two petitioners, namely Rohit Kumar Yadav and Ankit, (in CRM-M-17807-2021 and CRM-M-30321-2021) have sought for relief of anticipatory bail in connection with the same FIR.

2. The allegations in the original FIR lodged by the complainant-Pankaj were to the effect that on 21.09.2018 at about 10:45 A.M., he along with one Prajwal s/o Nihal Singh were going on foot for the purpose of getting coaching from Chankya Academy, Maharana Partap Chowk, Rewari. On reaching the street behind Shagun Hotel, both the complainant and his friend Prajwal were assaulted by various persons, namely Ashutosh, Lalit, Nikhil, Ankit, Sandeep and 10-12 others, having “*kassis and dandas*”, with which they beat up the complainant and his friend, both of whom suffered injuries. Victim-Prajwal was shifted to Pushpanjali Hospital for treatment and got admitted there. He subsequently succumbed to those injuries, on account of which, the offence punishable under Section 302 of the IPC was added in the case.

3. Contention of all the petitioners is that they have been falsely roped in the complaint.

4. It may be mentioned that earlier in September, 2021, this Court had directed the State to show the relevant documents/CCTV footage and snap shots concerning the occurrence, on the basis of which it was

contended that the petitioners were involved in the aforesaid occurrence. Such photographs/snap shots have since been placed on record from the CCTV footage of the place of occurrence, along with the Affidavit of the Deputy Superintendent of Police, Rewari, dated 08.11.2021. Perusal of the same goes to show the petitioner-Ashutosh to be holding a thick wooden stick/handle of *kassi* in his hands in various photographs, with which he is seen to be attacking other persons.

5. From their side, the petitioners have shown to this Court the deposition of the complainant-Pankaj recorded in the Ld. Trial Court as PW-1, in which it was stated that:-

“ On 21.09.2018, at about 10:45 am, I along with my friend Parjwal s/o Nihal Singh r/o village Mundi started from the bus stand on foot to go to Chankya Academy for coaching. When we reached behind the hotel Shagun, then accused Ashutosh, Amit from Lalpur Ki Dhani, Nikhil, Ankit, Manoj from Pranpura, Vikas & Ankit from Pranpura, Amit from Nangli Godha, Amit from Gurdas Majra, Aman armed with wooden handle of Kasi came from our front side and from the back side accused Lalit, Deepak, Sandeep, Rohil @ Kala from Mandhiya, Ajay Janu, Lala, Mangat @ Mangesh, Vikas @ Viku, Rohit @ Golu, Jasvir @ Jasu, Deepak @ Kunal also armed with wooden handles of kasi (“bainde”) came and started fiercely abusing us and also started beating us. Lalit, Sandeep, Rohit @ Kala, who were carrying kassi bainde inflicted its blows on the back side of the head of Parjawal. Ajay Janu, Ankit from Pranpura, who were carrying kassi bainde, gave its blows on the front side of the head of Parjawal. Ashutosh, Nikhil, Ankit inflicted bainde blows to me on

my left hand. Rohit @ Lala gave bainde blows on my back. The remaining accused gave fist and leg blows to us, and we some how escaped from their bainde blows. Parjawal on account of injuries inflicted to me, became unconscious and fell on the ground. By that time many people had gathered there, on seeing them, the assailants fled from there and while fleeing they threatened to kill us on finding next opportunity. One Gaurav arranged a private vehicle and took me and Parjawal to Pushpanjali Hospital, Rewari. I was treated there by the doctors, whereas Parjawal was referred to Rockland Hospital, Manesar to see his critical condition. Police recorded my statement, which is Ex.PA (earlier exhibited as Ex.PW3/A), on which at point-A I identify my signatures in English.....”
[Emphasis added]

6. In this manner, the submission raised on behalf of the petitioners is that from the own testimony of complainant-Pankaj, it is clear that all the three petitioners had inflicted *bainde* blows only to the said complainant on his left hand and back, and there is no allegation on any of these petitioners of having assaulted the deceased/victim-Prajwal, on account of which, they deserve to be granted the concession of bail.

7. This Court is not in agreement with the above contentions made on behalf of the petitioners. This is so, because first of all, the matter is still at the stage of trial. It is undisputed that victim-Prajwal succumbed to the injuries inflicted upon him by the various accused persons, and the petitioners were certainly members of the concerned unlawful assembly, which attacked the complainant and victim-Prajwal, at the time and place of occurrence. Consequently, their liability under Section 34 of the IPC to put

them at par with the other assailants involved in the same occurrence, which led to the death of the said victim, cannot be ignored at this stage of the trial, in this serious case involving the most grievous offence of murder, punishable under Section 302 of the IPC.

8. For the aforesaid reasons, this Court finds no merit in the prayer of all the three petitioners for grant of bail, on account of which, all the three petitions are dismissed.

09.12.2021
Apurva

(SUDIP AHLUWALIA)
JUDGE

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No