

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

208

**CRM-M-39795 of 2020
Date of Decision:27.09.2021**

Tahir and another

..... Petitioners

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Saleem Ahmed, Advocate,
for the petitioners.

Mr. Munish Sharma, AAG, Haryana

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

On 01.12.2020 the following order had been passed by this court (coordinate Bench):-

“The case has been taken up for hearing through video conferencing.

The petitioners have filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for grant of anticipatory bail in case FIR No.225 dated 05.08.2020 registered under Sections 148, 323, 324, 325, 452 and 506 read with Section 149 of the Indian Penal Code, 1860 (for short 'the IPC') in Police Station Tauru, District Nuh from which Section 452 of the IPC was deleted and Section 307 of the IPC was added later on.

Learned Counsel for the petitioners has submitted that the petitioners have been falsely implicated in the case. Allegedly, first incident took place on 31.07.2020 at about 6:30 p.m. and the second

incident took place on 01.08.2020 at 11:00 a.m. In the first occurrence petitioner No.1 is alleged to have inflicted blow on left hand of the complainant with lathi which injury was declared to be grievous while petitioner No.2 is alleged to have given blow with iron rod on the right hand of the complainant which injury was declared to be simple. In the second occurrence co-accused Mohabat is alleged to have given pharsa blow on the head of the wife of the complainant which injury was declared to be dangerous to life. Both the petitioners are not alleged to have caused any injury to Rukseena wife of the complainant and there are no specific allegations regarding causing of injuries or attribution of specific overt acts to the petitioners in the second occurrence which took place on 01.08.2020 at 11:00 a.m. The petitioners are ready to join the investigation.

Notice of motion.

Pursuant to supply of advance copy of the petition, Mr. Ranvir Singh Arya, Addl. A.G., Haryana has appeared and accepted notice on behalf of the respondent-State.

Learned State Counsel seeks time to file reply.

Adjourned to 11.02.2021.

In the meanwhile, petitioners-Tahir and Ismail are directed to join the investigation as and when called upon to do so. In the event of their arrest, the petitioners shall be released on interim bail by the arresting officer/investigating officer on furnishing of bail bonds by them to the satisfaction of the arresting officer/investigating officer. The petitioners shall comply with the conditions enumerated under Section 438(2) of the Cr.P.C. failing which they shall not be entitled to the protection of interim bail allowed to them. ”

Today learned State counsel submits, on instructions from ASI Mohan, that the petitioners' custodial interrogation is not required.

That being so, though in the reply filed by the DSP, HQ, Nuh, dated

04.02.2021, it has been eventually stated that the petition may either be dismissed or appropriate orders may be passed. With 6-7 months having gone by since then, and the investigating officer himself not wanting the custodial interrogation of the petitioner, therefore even in terms of the ratio of the judgment of the Supreme Court in M.C. Abraham v. State of Maharashtra (2003) 2 SCC 649, this petition has been rendered infructuous and is disposed of as such.

However, if the petitioners' custodial interrogation is required at any stage hereinafter, in the context of the FIR in question, they would be given 10 days notice before arrest, duly shown to be served upon them.

Naturally, if the complainant is aggrieved in any manner, of lack of proper investigation, he would be always at liberty to avail of his remedy as per law.

September 27, 2021
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No