

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

**CRM-M-863-2022
Date of decision: 12.01.2022**

Ajmat Khan and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Harsh Mehla, Advocate
for the petitioners.

Mr. Deepak Kumar Grewal, DAG, Haryana.

(Through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

The petitioners pray for grant of anticipatory bail in FIR No. 515 dated 02.10.2021, registered under Sections 148, 149, 323, 307, 506 and 325 (added later on) of the IPC at Police Station Sadar Yamuna Nagar.

Learned counsel for the petitioners relies upon order dated 26.11.2021 passed in CRM-M-49486-2021, vide which co-accused Akhtar and Mujahir have already been granted the concession of anticipatory bail by this Court. The operative part of the order reads as under:

“Counsel for the petitioners has argued that both the petitioners are brothers and there was a marriage in the family of the petitioners where on account of playing of DJ, the complainant side came and started objecting to the same. It is further submitted that it was about 09:00 PM and even as per the administration’s direction, the DJ can be played upto 10:00 PM.

Counsel for the petitioners has also submitted that

as per the allegations in the FIR, Rafi has given a gandasi blow on the head of Ahsaan, which invoke Section 307 IPC and Rafi already stands arrested. It is further submitted that it is a case of fight between the two parties wherein the petitioners' side has suffered injuries and for the purpose of registration of the cross case, a complaint under Section 166(3) Cr.P.C., has already been filed before the Illaqa Magistrate and is pending consideration. It is also submitted that there is no specific allegation against the petitioners of causing any injury to any of the victim. Lastly, it is argued that both the petitioners are not involved in any other case of similar nature.

Counsel for the State, assisted by counsel for the complainant has opposed the prayer for bail on the ground that one of the victim Ahsaan has suffered head injury, which is attributed to Rafi. It is further stated that 04 persons named in the FIR, have already been arrested.

Counsel for the complainant has additionally argued that some recovery is to be effected from the petitioners as they were shown to be carrying stick in their hands.

After hearing the counsel for the parties, considering the fact that it is a case of version and cross-version and as per the allegations in the FIR itself, it is the complainant side which has gone to the house of the petitioners where a marriage ceremony was going on and the complainant side protested for playing DJ at about 09:00 PM and on that account, a free fight occurred between both them and both the parties have suffered injuries, therefore, it will be a matter of trial as to which party was aggressor.”

Learned counsel further submits that one other co-accused namely Wahab has also been granted the concession of regular bail by this

Court, vide order dated 23.12.2021 passed in CRM-M-53312-2021.

Learned counsel further submits that after the registration of the FIR, five co-accused, namely Mohammad Rafi, Rasid, Aalim, Aasik and Abdul Wahab were arrested and injury invoking Section 307 IPC is attributed to co-accused Mohammad Rafi, who was armed with a *Gandasi* and has given a blow on the head of the victim. It is further submitted that co-accused Mohammad Rafi is still in custody.

Learned counsel further submits that there is no specific allegation against petitioner Ajmat Khan and he has been denied the anticipatory bail only on the ground that he was earlier convicted in some case, though his appeal is pending before the appellate Court.

Learned counsel further submits that with regard to petitioner Mukarram Khan, though it is alleged that he was armed with a rod, however, no specific injury invoking Section 307 IPC is attributed to him as it is the case of the prosecution that it is co-accused Mohammad Rafi, who was armed with a *Gandasi* and has given a blow on the head of the victim. It is, thus, submitted that the case of the petitioners are on similar footing to that of aforesaid co-accused, who have already been granted the concession of anticipatory bail.

Learned State counsel, on the basis of the allegations in the FIR, could not dispute the factual position, however, it is submitted that petitioner Ajmat Khan was earlier convicted in a case for a period of one year, though his appeal is pending.

After hearing learned counsel for the parties, without making any comment on the merits of the case, considering the fact that main accused Mohammad Rafi, against whom there is an allegation that he was

armed with a *Gandasi* and has caused injuries to victim stands arrested, and also in view of the fact that some of the co-accused have already been granted the concession of anticipatory bail/regular bail as noticed above, the present petition is allowed. The petitioners are granted the concession of anticipatory bail, subject to the conditions envisaged under Section 438(2) Cr.P.C.

However, it will be open for the Investigating Officer to call upon the petitioners to join investigation, if so required, by issuing them a written notice in this regard.

12.01.2022
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No