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

**CRM-M-16550-2022 (O&M)
Date of decision : 21.09.2022**

Lakhan and another

.....Petitioners

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. A.P.S. Deol, Senior Advocate with
Mr. Himmat Singh Deol, Advocate
for the petitioners.

Mr. B.S. Virk, D.A.G., Haryana.

RAJESH BHARDWAJ, J. (Oral)

CRM-35935-2022

Allowed as prayed for.

Annexure P-8 is taken on record.

CRM-M-16550-2022

Prayer in the present petition is for grant of regular bail to the petitioners in case FIR No.209 dated 25.07.2021, under Sections 148, 149, 323, 341, 354, 427, 506, 308 of IPC and Sections 3(1) (w-i), 3(s) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station Chhappar (Yamuna Nagar).

As per the facts of the case, the present FIR was lodged by the complainant-injured Darshan Kumar wherein, it was alleged that on 22nd July, 2021 at about 09:00 PM, he was going to purchase house hold articles from village. Then after reaching his village, one tractor-trolley came there from the opposite side and then he signaled him with the dipper to stop but the driver of the tractor-trolley did not stop his

tractor-trolley and stopped it in front of his vehicle. Thereafter, Johny son of Rajinder told him to reverse his vehicle upon which the scuffle ensued and Johny abused him on the casteist remarks and as the fight ensued, he called his other relations which includes Lakhan and Mangal i.e. the present petitioners. Thereafter, co-accused Johny gave saria blow on the head of the complainant. He was admitted in the hospital and thus, the statement was recorded by the police. On the basis of the statement recorded, the present FIR was lodged and the investigation commenced. The complainant was medically examined and after receiving the information from the Doctor, the present FIR was lodged under the various offences. On the very next date, the petitioners side also lodged the cross-version against the complainant side which is GD No.23 dated 23rd July, 2021 on the statement of the Narender Singh @ Johny. On the commencement of the investigation, the petitioners were arrested on 7th March, 2022. They approached the Court of learned Additional Sessions Judge, Yamuna Nagar at Jagadhri praying for grant of bail. However, after hearing counsel for the parties, the same was declined by the learned Additional Sessions Judge vide his order dated 11.04.2022. Aggrieved by the same, the petitioners are before this Court praying for grant of regular bail.

Learned Senior counsel for the petitioners has contended that the petitioners have been falsely implicated in this case only being the relatives of Johny. He has submitted that even by going through the allegations in the FIR, the presence of the petitioners have been shown when Johny called them at the place of occurrence. He has submitted that the attribution is also against the co-accused Johny and there is no

specific role attributed to both the petitioners. He has submitted that the names of the petitioners have been included in the FIR only to rope in them for the unlawful assembly. He submits that after investigation, the challan is presented and the charges are framed and presently, the trial Court has also commenced with the examination of the prosecution witnesses. He has submitted that the complainant i.e. injured witness also stands examined. He has submitted that once the complainant already stands examined, possibility of the petitioners influencing the prosecution witnesses also does not exist. He submits that even otherwise the petitioners have no criminal antecedents as they never faced any criminal prosecution except the present case. He submits that in the overall facts and circumstances of the case, the petitioners deserve to be granted bail.

Learned State counsel has submitted that the petitioners are the part of the unlawful assembly. He has candidly acknowledged that the petitioners were armed with *danda* but the injury under Section 308 IPC has been attributed to co-accused Johny. He has submitted that as per the instructions provided, the petitioners have no criminal antecedents and out of 27 prosecution witnesses, 02 witnesses stand examined including the injured-complainant.

I have heard counsel for the parties and perused the record.

Admittedly, as per the case of the prosecution, the petitioners were called at the side on the calling of co-accused Johny. Though they were alleged to have been armed with *danda*, however, the injury under Section 308 IPC has been alleged to be given by the co-accused Johny. The complainant already stands examined. There is nothing on the record to show that the petitioners have any criminal antecedents. The petitioners

side also lodged the cross-version on the next date of the occurrence by way of GD No.23 dated 23rd July, 2021 which culminated in registration of the FIR.

In the overall scenario which part is the aggressive would totally lie in the domain of the trial Court to be assessed after appreciating the evidence. However, in the overall facts and circumstances of the case, I am of the opinion that learned Senior counsel for the petitioners has been able to make out a case for grant of regular bail to the petitioners. The trial is likely to take time in its conclusion. Accordingly, the present petition is allowed and the petitioners are ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

21.09.2022
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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