

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-37857-2022 (O & M)****Date of decision: 20.09.2022**

Ajay and anr.

.... Petitioners

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rakesh Nehra, Sr. Advocate,
with Mr. Ankit Yadav, Advocate,
and Mr. Sauhard Singh, Advocate, for the petitioners.

Mr. Vikrant Pamboo, DAG, Haryana.

Mr. Nikhil Vats, Advocate, for the complainant.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioners in case FIR No. 105 dated 12.05.2022 under Sections 308, 506 read with Section 34 IPC registered at Police Station City Bahalgarh, District Sonapat, Haryana.

2. The brief facts of the case are that one Jaibir got registered the FIR with the allegations that the plot of his brother, namely, Raj Singh was situated close to the plot of his uncle Maichand. On 11.05.2022, his sister-in-law Sushma wife of Raj Singh had gone to her plot where Surji wife of Maichand and Brijesh wife of Devender were present. Surji started abusing his sister-in-law who told them (the complainant-party) after she returned to the house. After that at about 8.0 p.m., while they were standing in a street

No.2) came there. Miachand was holding a *danda* and Devender @ Soni was carrying an axe in their hands. Devender Singh @ Soni inflicted an axe blow on the head of his (complainant's) brother Raj Singh and Maichand gave a *danda* blow on the waist, hand and feet of his brother Raj Singh. Thereafter Ajay son of Rattan (petitioner No.1) also came there with an axe in his hand and inflicted a blow on the head of his (complainant's) nephew Prince. After that, Rattan, his wife-Santra, Surjit and Brijesh came with sticks in their hands and inflicted injuries to him (complainant) on his head and on the hands of his wife-Kamlesh.

3. The learned Senior counsel for the petitioners contends that as per the doctor's opinion all the injuries on the person of the complainant and injured, namely, Jaibir, Raj Singh, Prince and Kamlesh are simple in nature and therefore no offence under Section 308 IPC is made out. He contends that it is a sudden occurrence and the applicability of Section 34 IPC would be a matter of adjudication during trial. The petitioner No.1-Ajay is in custody since 15.06.2022 and Devender @ Soni is in custody since 12.05.2022. The investigation stands completed, challan filed and since none of the 14 prosecution witnesses have been examined, the trial is not likely to be concluded in the near future. He further contends that it is otherwise a family dispute and the petitioners are first-time offenders. He, thus, prays for the grant of regular bail to the petitioners.

4. The learned counsel for the State counsel while referring to the reply dated 16.09.2022 submits that the petitioners are the main accused and do not deserve the concession of bail. He, however, does not deny the fact that all the injured have received simple injuries and the petitioners are first-time offenders and none of the 14 prosecution witnesses have been

5. The learned counsel for the complainant has vehemently opposed the bail application stating that the petitioners do not deserve the concession of bail looking at the manner in which the occurrence has taken place.

6. I have heard the learned counsel for the parties at length.

7. Admittedly, the petitioners i.e. petitioner No.1-Ajay is in custody since 15.06.2022 and petitioner No.2-Devender is in custody since 12.05.2022 respectively. As per the investigation, all the injuries on the person of the 04 injured are simple in nature and therefore, it would be a matter of adjudication during trial as to what offence was made out. None of the 14 prosecution witnesses have been examined so far. Since the trial, in the present case, is not likely to be concluded in the near future, therefore, the further incarceration of the petitioners is, as such, not required.

7. In view of the above, but without commenting upon the merits of the case, the present petition is allowed and the petitioners, namely, Ajay and Devender are ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. If any attempt whatsoever is made by the petitioners and/or their family members/friends to contact/threaten/intimidate any of the witnesses of the present occurrence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.

(JASJIT SINGH BEDI)
JUDGE

September 20, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No