

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

CRM-M-48445-2022

Date of Decision: 29.10.2022

Sandeep Singh @ Deepu Katti and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM:HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr.Kushagra Mahajan, Advocate for the petitioners

Mr.G.S.Sandhu, DAG, Punjab

ASHOK KUMAR VERMA, J.

The petitioners have approached this Court by filing this petition under Section 438 of the Cr.P.C. for grant of anticipatory bail in FIR No.25 dated 24.3.2022 under Sections 458, 336, 427, 148, 149 of the IPC and Sections 25 and 27 of the Arms Act, 1959 registered at Police Station Jhabal, District Tarn Taran.

The story of the prosecution in brief is that on 24.3.2022, it was 12 midnight that the complainant alongwith his family members was sleeping in his house, both the petitioners alongwith other co-accused broke open the main gate of the house and entered and started attacking with the help of brick bats, stones. The accused put motorcycle CD Deluxe (PB46 F 5424) on fire and also damaged the Alto car bearing no.

DL08 CR 3726 silver colour. While going they fired twice in the air.

Learned counsel for the petitioners, *inter alia*, submits that no injury has been attributed to the petitioners. However, the petitioners have suffered injuries at the hands of the family members of the complainant. No weapon under Section 25/27 of the Arms Act is alleged to have been used in the commission of offence. Nothing is to be recovered from the petitioners. The petitioners are already ready and willing to join the investigation.

On the contrary, learned counsel for the State submits that custodial interrogation of the petitioners is necessary. The recovery of weapons used in the commission of offence is yet to be effected. The offences have been committed in the midnight by criminally trespassing into the house of the complainant and damaging to the property.

Having heard learned counsel for the parties, I am of the view that the petitioners have been specifically named in the FIR. There is specific role attributed to them. The allegations against the petitioner are serious in nature that they alongwith other co-accused have criminally trespassed into the house of the complainant by scaling the wall thereof and after opening the gate of the said house, they entered forcibly into it and attacked the complainant alongwith his family members with brick bats and stones. They also damaged the properties and while going, they fired twice in the air. It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C. is somewhat extraordinary in character and it is to be exercised in exceptional cases. This view of mine finds support from the judgment of Hon'ble Supreme Court in **Madhya Pradesh Vs. Pradeep Sharma, (2014) 2 SCC 171.**

In view of the discussion made above, the present petition being devoid of any merit is dismissed. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

(ASHOK KUMAR VERMA)
JUDGE

29.10.2022
MFK

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>