

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

I) CRM-M-50160-2022 (O&M)

Muhimad Shrif @ Muhimad Sharif ... Petitioner

Versus

State of Punjab ... Respondent

II) CRM-M-50176-2022 (O&M)

Abdula Ahmed ... Petitioner

Versus

State of Punjab ... Respondent

III) CRM-M-50221-2022 (O&M)

Ahimed Nabi ... Petitioner

Versus

State of Punjab ... Respondent

Date of Decision:-14.11.2022

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Liaqat Ali, Advocate for the petitioner(s).

Mr. Luvinder Sofat, DAG, Punjab,
assisted by ASI Sarabjit Singh.

Mr. Mitul Singh Rana, Advocate for the complainant.

GURVINDER SINGH GILL, J.

1. This order shall dispose of the above mentioned three petitions filed on behalf of petitioners Muhimad Shrif @ Muhimad Sharif, Abdula Ahmed and Ahimed Nabi seeking grant of anticipatory bail in respect of a case registered vide FIR No.81, dated 22.4.2022, Police Station Tanda, District Hoshiarpur, under Sections 302, 307, 324, 323, 148, 149 and 120-B of Indian Penal Code.
2. Separate replies by way of affidavit of Shri Kulwant Singh, PPS, Deputy Superintendent of Police, Sub Division Tanda, District Hoshiarpur in all the three cases have been filed by learned State counsel, which are taken on record.
3. The FIR was lodged at the instance of Karamdeen, wherein it is alleged that on 21.4.2022, there was gathering on account of '*Chalivan*' of Lal Hussain, father of Sheru. The complainant alongwith his sons Talib Hussain, Murtaza Ali, Abdul Ali and his grandson namely Reham Ali went to the house of Sheru so as to participate in the religious rites of Sheru's father Lal Hussain. The other persons of their '*Gujjar*' community alongwith complainant's uncle's sons namely Gulam Navi, Gulam Rasool, Mohammad Rafi, Mohammad Sharif, Mohammad Raseed, Abdullah, Mohammad Rasheed and Ahmed Navi were also present there. The aforesaid persons had a quarrel with the complainant about two years back, which was compromised. It is alleged that at about 08:00 p.m., after completion of religious rites of '*Chalivan*' of Lal Hussain, Sheru raised a '*lalkara*' exhorting his companions to catch hold of the complainant and his sons and teach them a lesson for having quarreled with them on an earlier occasion. Pursuant to which, Gulam

Nabi, Gulam Rasool, Mohammad Rafi, Abdullah, Mohammad Raseed and Ahmed Nabi opened a murderous assault and attacked the complainant party after picking sticks from 'Dera' of Sheru. Mohammad Rafi picked up a brick from the 'Dera' and hit the same on the middle of head of complainant's son Talib Hussain with an intention to kill him as a result of which complainant's son Talib Hussain fell down and died at the spot on account of injuries sustained by him. The said persons also caused grievous injuries to complainant's son Murtaza Ali, Abdul Ali and his grandson Rehim Ali in connivance with each other. When the complainant raised alarm, the said persons ran away from the spot.

4. Learned counsel for the petitioners submits that the petitioners have been falsely implicated in the present case and that apparently none of the petitioners was armed and the allegations are that they had picked up sticks from the spot. Learned counsel has further submitted that infact it is a case of cross-versions, wherein some persons from the side of the accused also sustained injuries in respect of which the police did not record any report on account of pressure of the complainant party and it was only after about 5 months of the occurrence that one DDR i.e. DDR No.47, dated 1.9.2022, under Sections 323, 325, 506, 148 and 149 of Indian Penal Code, came to be recorded.
5. Learned counsel for the petitioners has submitted that, even if, the allegations as levelled in the FIR are taken to be correct, it is only Mohammad Rafi, who is attributed the fatal blow with a brick to the deceased and none of the petitioners is attributed any specific role to the deceased. It has also been submitted that having regard to the nature of allegations, it will also be

debatable as to whether it is a case for having committing offence punishable under Section 302 of Indian Penal Code or is just a case of culpable homicide not amounting to murder.

6. Opposing the petitions, learned State counsel assisted by learned counsel for the complainant has submitted that the petitioners are specifically named in the FIR and all of them had shared a common object of launching a murderous assault on the deceased and others. The mere fact that none of the members of the unlawful assembly is attributed specific injury would be of no consequence and each of the member would be fully liable for having committed the offence of murder. Learned State counsel has further submitted that although one DDR i.e. DDR No.47, dated 1.9.2022 came to be recorded at the instance of one of the co-accused after about 5 months of the occurrence, but it is a case where only two persons were injured from the side of the accused namely Gulam Rasool and Mohammad Rafi and that apparently the said injuries had been caused by the complainant party in self defence.
7. This Court has considered the rival submissions.
8. The petitioners are specifically named in the FIR and they together are alleged to have opened a murderous assault upon the complainant party inflicting injuries to them with the help of sticks and a brick. The deceased expired on account of the injuries sustained by him particularly the injury on his head, which is stated to have caused with a brick. In these circumstances, this Court does not find any special case for grant of anticipatory bail to the petitioners. The petitions are sans merit and are hereby dismissed.

9. A copy of this order be placed on the file of each connected case.

14.11.2022
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(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No