

CRM-44706-2022 in/and
CRM-M-50408-2022

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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-44706-2022 in/and
CRM-M-50408-2022

Date of Decision: 21.11.2022

Rahul Walia

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Naveen Kumar Jaglan, Advocate for the petitioner.

Mr. Gaurav Bansal, Assistant Advocate General, Haryana.

ASHOK KUMAR VERMA, J. (ORAL)

CRM-44706-2022

Application is allowed as prayed for.

Copy of order dated 28.09.2022, passed by the learned Additional Sessions Judge, Ambala, is taken on record as Annexure P-4, subject to all just exceptions.

CRM-M-50408-2022

The present petition under Section 438 Cr.P.C., has been filed by the petitioner for grant of anticipatory bail in case FIR No. 463 dated 29.08.2022 registered under Sections 148, 149, 323, 427, 452, 307 and 506 IPC at Police Station Ambala City, District Ambala.

Brief facts of the present case are that on 29.08.2022, complainant-Amit, lodged a complaint with the police that he has two

brothers, namely, Jaipal and Arun. Few days ago, one Vicky, resident of their locality had caused injuries to his brother-Jaipal without any reason for which an FIR was lodged against aforesaid Vicky and his companions. Upon this, Vicky, is nursing a grudge against the complainant party. In the intervening night of 28/29.08.2022 at about 11.30 P.M., Rahul Walia (petitioner herein) and Vicky, aforesaid along with 7-8 persons armed with deadly weapons forcibly entered into the house of complainant and attacked upon his family. They also beaten the parents of the complainant and his cousin-Ajay Kumar. They damaged the house of complainant by pelting stones and bricks. On hearing hue and cry people were gathered at the spot and the accused persons fled away from the spot with their respective weapons extending a threat to kill the complainant and his family. Thereafter, when the complainant along with many persons of his locality was standing at Ambedkar Chowok, Rahul Walia (petitioner herein) tried to run over him (complainant) with his car, but he managed to save himself by jumping aside and suffered injury on the right elbow.

Learned counsel for the petitioner *inter alia* contends that the petitioner has falsely been implicated in the instant case without any rhyme or reason. The entire incident is recorded in the CCTV Camera installed on the wall of S.A. Jain Senior Secondary Model School, Ambala City, the footage thereof, is already with the police. From the said CCTV footage, it is visible that it was the complainant who along with his accomplices attacked the car belonging to the petitioner driven by co-accused Vicky and caused injuries to the persons sitting inside the

car and also caused damages to the car. Qua the said occurrence, Rajni- wife of Vicky aforesaid who was also present in the car at that time, filed a complaint dated 01.09.2022 (Annexure P-2), to the Superintendent of Police, Ambala City, against the complainant party. The petitioner was not present at the spot. Aforesaid, Vicky had borrowed the car from the petitioner which is allegedly involved in the incident. Co-accused of the petitioner has already been granted the concession of bail. Petitioner is willing and ready to join the investigation of the case.

On the other hand, while refuting the above submissions of learned counsel for the petitioner, learned counsel for the State contends that petitioner-Rahul Walia, is the main accused. On instructions from ASI Rajiv Barna, learned State counsel contends that the petitioner is involved in six more cases of similar nature. The petitioner has committed a serious offence as he tried to run over the complainant with his car by driving the same at a very high speed. For further investigation of the case, custodial interrogation of the petitioner is required. Thus, learned counsel for the State prays for dismissal of the present petition.

After hearing learned counsel for the parties and carefully going through relevant material available on record, this Court finds that instant petition being completely devoid of any merit.

Admittedly, in the intervening night of 28/29.08.2022 at about 11.30 P.M., the petitioner along with his co-accused-Vicky and 7-8 persons armed with deadly weapons forcibly entered into the house of complainant and attacked upon his family. They also beaten the parents of the complainant and his cousin-Ajay Kumar. The assailants have also

damaged the house of complainant by pelting stones and bricks. In the said incident, 5 persons of the complainant party have received injuries 12 injuries i.e. (i) Amit had received 3 injuries; (ii) Ramesh Kumar, father of complainant had received 4 injuries; (iii) Smt. Kailasho Devi, mother of the complainant had received 2 injures; (iv) Ajay-cousin of the complainant had received one injury on the chest and (v) one Rajat, had received 3 injuries.

Petitioner is one of the main accused, who allegedly tried to run over the complainant with his car by driving the same at a very high speed. Filing of complaint (Annexure P-2) by Rajni wife of co-accused Vicky, before the Superintendent of Police, Ambala City, is an afterthought. The car involved in the occurrence belongs to the petitioner. More so, the petitioner is a habitual offender as he is involved in six more cases of similar nature. It has been observed by the Hon'ble Supreme Court in case ***Gudikanti Narasimhulu v. Public Prosecutor, High Court of A.P, (1978) 1 SCC 240*** that deprivation of freedom by refusal of bail is not for punitive purposes but for the bifocal interests of justice. It has further been observed that it is rational to enquire into the antecedents of the man who is applying for bail to find out whether he has a bad record, particularly a record which suggests that he is likely to commit serious offences while on bail.

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.

Keeping in view the above facts as well as nature of the offence, the petitioner does not deserve the concession of anticipatory bail.

Hence, the present petition is hereby dismissed.

November 21, 2022
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned **Yes/No**

Whether Reportable **Yes/No**