

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

CRM-M-54587-2022

Date of Decision: 24.11.2022

Ritik Dass

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr.Pardhuman Garg, Advocate for the petitioner

Mr.Munish Sharma, AAG, Haryana

...

ASHOK KUMAR VERMA, J.

The petitioner has approached this Court by filing this petition under Section 438 of the Cr.P.C. for grant of anticipatory bail in FIR No.606 dated 10.10.2022 under Sections 148, 149, 323, 506 of the IPC and under Section 367 of the IPC added later on registered at Police Station Palla, Faridabad.

On the complaint given to the Police by Keshav, the present FIR has been registered on the allegations that on 6.10.2022, he alongwith his brother Nitesh was present near street no.6, Usha Dairy for some work. The petitioner alongwith his companions came there on motorcycle armed with iron rod and dandas and attacked the complainant and his brother. When they raised an alarm, many persons gathered there on which petitioner alongwith his companions forcibly abducted the complainant to Vinay Nagar on their motorcycle and caused injuries to him with fist, kick and danda blows.

Notice of motion.

On the asking of this Court, Mr. Munish Sharma, AAG, Haryana accepts notice on behalf of the respondent-State.

Learned counsel for the petitioner, *Inter alia*, contends that present FIR has been lodged falsely against the petitioner. He submits that all the offences in the FIR are bailable, except Section 367 of the IPC and the said Section is made out only in that circumstance where the person so abducted may be subjected, or may be so disposed of as to be put in danger of being subjected to grievous hurt, or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of. However, in the present case, no such incident had occurred. Learned counsel further submits that nothing is to be recovered from the petitioner and as such no custodial interrogation is required.

On the contrary, learned counsel for the State submits that the allegations against the petitioner are serious in nature. The complainant and his brother have suffered as many as 6 and 2 injuries, respectively. The opinion of the doctor is yet to be received. In the absence of opinion of the doctor, it would be early to conclude that Section 367 of the IPC is made out or not. Learned counsel also submits that the investigation is at initial stage and recovery of iron rod, danda etc. is yet to be effected and as such custodial interrogation of the petitioner is required.

Having heard learned counsel for the parties, *prima facie*, I am of the considered view that the petitioner has been specifically named in the FIR. There are specific role attributed to him. Complainant-Keshav and his brother Nitesh received as many as 6 and 2 injuries, respectively.

The opinion of the doctor is yet to be received. Moreover, investigation is at early stage and is still going on and, therefore, custodial interrogation of the petitioner is necessary for finding out the modus operandi of commission of offence. 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

24.11.2022

MFK

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No