

2023:PHHC:089239**207****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-8250-2023 (O&M)
Date of decision :17.07.2023**

Ravinder Kumar and another

... Petitioners

Versus

State of Haryana

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Keshav Partap Singh, Advocate, for petitioner no.1.

Mr. Viney Phogat, Deputy Advocate General, Haryana.

Mr. Kapil Aggarwal, Advocate and

Mr. R. K. Agnihotri, Advocate, for the complainant.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of pre-arrest bail to petitioner no. 1- Ravinder Kumar (petition qua petitioner no.2- Krishan Kumar already dismissed by the Coordinate Bench vide order dated 16.02.2023) in FIR No. 25 dated 11.01.2023 registered under Sections 323, 324, 326, 34 and 506 IPC, at Police Station, Sadar Karnal.

(2) It transpires that above FIR was registered on the basis of statement made by complainant-Aman Kumar to the effect that petitioners gave beatings to him on 01.01.2023.

(3) The Coordinate Bench, vide order dated 16.02.2023, granted interim bail to petitioner no.1 – Ravinder Kumar and the same reads as under:-

“This is a petition filed under Section 438 Cr.P.C. for grant of anticipatory bail in case having FIR No. 25 dated 11.01.2023, registered under Sections 323, 324, 326, 506 and 34 IPC at Police Station Sadar Karnal, District Karnal.

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FIR in this case was registered on the basis of the statement of one Aman Kumar wherein he alleged that both the petitioners gave beatings to him and at that time petitioner No.2 Krishan caused injury on his left arm with sharp edged weapon. Another FIR No.24 was registered on the basis of the statement of petitioner No.1 Ravinder wherein he alleged that he was attacked by Aman and Rahul and they caused injuries to him.

The counsel for the petitioners, inter alia, contends that the petitioners have been falsely implicated in this case and actually at the time of occurrence on 01.01.2023, Aman and Rahul assaulted petitioner No.1 and petitioner No.2 came to his rescue and in this regard FIR No. 24 dated 11.01.2023 is registered against said Aman and Rahul. That one of the injury suffered by petitioner No.1 at the hands of opposite party is found to be grievous in nature and is covered under Section 326 IPC being caused with sharp edged weapon. The counsel for the petitioner further submits that no 1 of 3 such injuries as alleged by Aman are caused by both the petitioners. The counsel for the petitioner further submits that the petitioners are ready to join the investigation with the police.

Notice of motion.

Mr. Naveen Sheoran, DAG Haryana has accepted notice on behalf of the State while Mr. R.K. Agnihotri, Advocate has put in appearance on behalf of complainant.

The State counsel submits that both the petitioners attacked Aman and caused injuries to him and the injury caused by petitioner No.2 Krishan with sharp edged weapon is found to be grievous in nature. The State counsel further submits that both the petitioners are required by the police for proper investigation of the case.

The counsel for the complainant submits that at the time of the occurrence, petitioner No.2 caused grievous injury on the person of Aman with sharp edged weapon and even petitioner No.1 also caused injuries to Aman. The counsel for the complainant further submits that no such incident as alleged by petitioner No.1 in FIR No. 24 has ever taken place. The counsel for the complainant further submits that recovery of weapons used by the petitioners is yet to be effected. So, prayer is made that present petition be dismissed.

I have considered the submissions made by counsel for the parties.

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Admittedly, only simple injuries are attributed to petitioner No.1 Ravinder Kumar and even as per cross-version having FIR No.24 dated 11.01.2023 the opposite party caused injuries to petitioner No.1.

In this case, grievous injury caused with sharp edged weapon is attributed to petitioner No.2 Krishan Kumar. As per the cross-version recorded in FIR No.24, no injury was suffered by the said petitioner at the hands of the opposite party. The aforesaid injury caused by petitioner No.2 is covered under Section 326 IPC and the weapon used by the said petitioner in causing the said injury is to be recovered.

In the light of the above, this Court is of the view that no ground is made out to grant concession of anticipatory bail to petitioner No.2. However, petitioner No.1 is hereby directed to join the investigation with the police and in case of arrest he is to be released on interim bail by the Investigating/ Arresting Officer to his satisfaction till the next date of hearing fixed in this petition. He is also to abide by the conditions envisaged under Section 438(2) Cr.P.C.

The present petition stands dismissed qua petitioner No.2.

Now be listed on 17.07.2023”

(4) Learned counsel submits that in pursuance of the aforesaid order, petitioner no.1 has already joined the investigation and his custodial interrogation is not required.

(5) The above factual position is duly acknowledged by learned State Counsel, on instructions from ASI Rajnish Kumar and further stated that custodial interrogation of petitioner no. 1. is not required at this stage.

(6) In view of above, interim order dated 16.02.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

(7) It is also made clear that petitioner no.1 shall fully co-operate with the Investigating Officer as and when called for further investigation.

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(8) The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.

(9) Disposed off accordingly.

17.07.2023

vs

(MAHABIR SINGH SINDHU)**JUDGE**

Whether speaking/ reasoned : Yes/No

Whether reportable : Yes/No