

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

CRM-M-12076-2023 (O&M)

Reserved on: 30.10.2023

Pronounced on: 02.11.2023

HARDEEP @ PINKI AND OTHERS

. . . . Petitioners

Vs.

STATE OF HARYANA

. . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Ishnoor Singh and
Mr. Vikram Singh, Advocates,
for the petitioners.

Mr. Randhir Singh, Addl. AG, Haryana.

Mr. Deepanshu Matya, Advocate,
for the complainant.

DEEPAK GUPTA, J.

By way of this petition filed under Section 438 CrPC, petitioners, namely, Hardeep @ Pinki, Naresh @ Bhalla, Azad and Vishal, pray for grant of anticipatory bail in case FIR No.1083 dated 06.12.2022 registered at Police Station Civil Lines Karnal, District Karnal, under Sections 148/149/307/323/325/341/506 IPC.

2. FIR was lodged on the complaint of one Krishan, as per which Rattan son of Balwan & Raja Kumar son of Sunhra are his friends. On 04.12.2022, he was near Ror Dharamshala, Karnal, when he received call from his relative Soni to the effect that Raj Kumar and Rattan were being beaten with iron rods and pistols etc. by Hardeep @ Pinki, Vishal

Walia and 3-4 boys with muffed faces. Complainant along with Pankaj,

Rinku and Parveen reached the spot and noticed that assailants had caused various injuries to Rattan and Raj Kumar, who then boarded the cars and fled away. Rattan and Raj Kumar were admitted in Prabhu Hospital at Karnal in injured condition.

3. It is contended by ld. counsel for the petitioners that initially the FIR was registered under Sections 148/149/323/341/506 IPC. However, later on, Section 325 and 307 IPC have been added on the basis of the opinion obtained from the private doctor. Still further, it is contended that petitioners have already joined the investigation and their further investigation is not required nor any recovery is to be effected from them; that no specific role is attributed to any of the petitioners and the offences are general in nature. Petitioners have also given details of their criminal antecedents, as per which petitioner No.1 Hardeep @ Pinki is involved in four cases as per details given in para-No.14 of the petition; whereas petitioner No.2 Naresh @ Bhalla is involved in three other cases as per details given in para-No.13 of the petition. Petitioner No.3 Azad is involved in two other cases as per details given in para-No.15 of the petition, out of which he has been acquitted in one of the cases. Ld. counsel for the petitioners further submitted that challan has already been filed and that in all these circumstances, petitioners be allowed bail.

4. Strongly opposing the bail petition, ld. State counsel ably supported by Ld. Counsel for the complainant submitted that in order to assess the injuries suffered by injured Raj Kumar @ Raju, a medical board was constituted and it is only after taking opinion from the said board that Section 307 IPC was added. It has been opined by the Doctor that injury on the person of Raj Kumar @ Raju was dangerous to life. Ld. State

counsel has also drawn attention towards the criminal antecedents of the petitioners. It is also submitted that report under Section 173 CrPC has been filed only against co-accused, Ramesh Kumar, Vinod and Vardan.

5. Apart from above, Ld. counsel for the complainant has drawn attention towards the separate reply filed by him, revealing that entire occurrence with regard to the attack on Raj Kumar was recorded in the CCTV camera. The footage in the form of Compact Disk and photographs have been appended with reply as Annexures C1 & C2. In the said footage, person wearing blue T-shirt is Hardeep @ Pinki - petitioner No.1, who is mercilessly beating the victim Raj Kumar with iron rod, whereas the other person with muffed face is Naresh @ Bhalla - petitioner No.2. Ld. counsel for the complainant submits that interim anticipatory bail was earlier obtained by the petitioners vide order dated 13.03.2023 by misleading the Court to the effect that opinion with respect to injury under Section 307 IPC was obtained from the private hospital. In fact, the investigating officer had placed reliance on the opinion taken from the board of doctors constituted in Kalpana Chawla Hospital, Karnal and that opinion was re-affirmed by PGIMER, Rohtak. Ld. counsel has also drawn attention towards photographs Annexure C2 (colly) in order to contend that petitioners No.1 & 2 are beating Raj Kumar mercilessly despite the fact that said Raj Kumar is lying in motionless state on the ground. It is contended that in fact petitioners presumed Raj Kumar to be dead, but still they kept on beating him. It is further submitted that it has been wrongly stated by counsel for the petitioners that challan has already been filed because challan has been filed only qua co-accused. Ld. counsel submits that as far as petitioners No.3 & 4 are concerned, he has no objection to

make the interim bail granted to them absolute, but petitioners No.1 & 2, do not deserve to be given the benefit of anticipatory bail having regard to the role attributed to them.

6. I have considered submissions of both the sides and have appraised the record carefully.

7. All the petitioners were allowed interim anticipatory vide order dated 13.3.2023 subject to the condition that they shall join the investigation. Though they have joined the investigation, but it has been wrongly informed to this Court that challan has already been filed. In fact, the status report filed by the police reveals that challan qua co-accused Ramesh, Vinod and Vardhan only has been filed. Even one of them namely, Vinod has absconded and his bail was cancelled as stated in the reply to the petition by complainant. The entire occurrence was captured on CCTV. The footage of CCTV along with certain photographs of the footage have been placed on record, revealing the role attributed to petitioners No.1 & 2, showing them beating Raj Kumar despite the fact that said Raj Kumar is lying in motionless state.

8. Having regard to all the aforesaid facts and circumstances and the roles attributed to petitioners No.1 & 2, namely Hardeep @ Pinki and Naresh @ Bhalla, they do not deserve to be given the benefit of anticipatory bail. As such bail petition qua both of them is hereby dismissed.

9. However, the interim bail granted to petitioners No.3 & 4 namely Azad and Vishal vide order dated 13.03.2022, is hereby made absolute subject to the condition that they shall abide by the conditions as

envisaged under Section 438(2) CrPC and they shall continue to join investigation, if and so required by the investigating officer.

Disposed of.

02.10.2023

Vivek

(DEEPAK GUPTA)

JUDGE

1. Whether speaking/reasoned?

2. Whether reportable?

Yes

Yes/No