

CRM-M-16344 of 2023 (O&M)

2023:PHHC:054933

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

CRM-M-16344 of 2023 (O&M)

Date of decision: 19.04.2023

Rizwan Ahmed

.....Petitioner

Versus

State of Haryana

.....Respondent

**CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**

Present: - Ms. Anu Garg, Advocate, for the petitioner.  
Ms. Gaganpreet Kaur, AAG, Haryana.

**NAMIT KUMAR, J.**

1. This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.0179 dated 10.07.2022 under Sections 148, 149, 323, 452, 506 IPC (Section 307 IPC added during investigation), registered at Police Station Pinangwa, District Nuh.

2. Brief facts of the case are that according to the prosecution, police received a medical ruka from CHC Punhana regarding admission of complainant Mohammad Aasid and one Juned. Police reached there and collected MLRs of the injured. Both injured were referred to higher centre. On 10.07.2022, complainant Aasid moved complaint to the police against twenty named persons including petitioner, whose name is mentioned at serial No. 01. Complainant alleged that on 06.07.2022 at about 12:00 noon, Rizwan (petitioner) sought a loan of Rs.20,000/- from Niyaz Mohd., who did not have the

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Samsher, who also refused, saying that people do not return the amount in time. Thereupon, Rizwan (petitioner) got enraged and hurled filthy abuses and thereafter called his family members. The assailants gave Niyaz Mohd. fists and leg blows in front of the shop of Rajjak. Juned intervened and was given lathi blows on head by Rijwan (petitioner) and Ikddin (co-accused). Complainant also intervened and was given fist and leg blows. He went inside his house to save himself and was followed by Illiyas @ Illaa, Fakru, Yasir, Tarif, Akram, Umar, Mohd. Soyab, who gave him injuries. Somebody informed the police at 112. Police came and rescued them. Injury on the person of Juned was declared 'dangerous to life', whereupon Section 307 of IPC was added in this case. Co-accused Ikddin, Usman, Akram and Kayyum were arrested in this case.

3. Learned counsel for the petitioner contended that the petitioner is innocent and has been falsely implicated in the present case. She further submitted that there is delay of four days in lodging the present FIR. She further submitted that co-accused of the petitioner, namely, Rajjak has been granted anticipatory bail by this Court vide order dated 23.11.2022 and in terms of order dated 19.01.2023 passed in CRM-M-52424 of 2022, his bail has been made absolute and co-accused, namely, Usman; Kayam; Akram and Illys have been granted regular bail by the Court of learned Sessions Judge, Nuh (Annexures P-2 to P-5). She further submitted that no offence

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under Section 307 IPC is made out against the petitioner. She further submitted that petitioner is ready and willing to join the investigation.

4. Per contra, learned State counsel, who appears on receipt of advance copy of the paperbook, has opposed the prayer of the petitioner by submitting that there are specific and serious allegations against the petitioner, therefore, his custodial interrogation is necessary.

5. I have heard learned counsel for the parties and perused the record.

6. From the perusal of record, it transpires that petitioner along with Ikddin is the main accused in the present case as he gave lathi blows on the head of the complainant. The injuries on the person of the complainant have been declared dangerous to life as a result of which Section 307 IPC has been added lateron. Moreover, this is the second petition filed by the petitioner seeking anticipatory bail without change of any circumstances after withdrawal of earlier petition i.e. CRM-M-57492 of 2022 on 23.03.2023.

7. As per law laid down by the Hon'ble Supreme Court in ***State of Madhya Pradesh v. Pradeep Sharma (2014) 2 Supreme Court Cases 171***, power exercisable under Section 438 Cr.P.C. is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his/her liberty.

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8. Keeping in view the facts and circumstances of the case, role attributed to the petitioner and gravity of offence, petitioner does not deserve the concession of anticipatory bail, as his custodial interrogation is necessitated in the present case.

9. The present petition is accordingly dismissed.

10. However, anything observed hereinabove shall not be construed as an expression of opinion on the merits of the case.

19.04.2023  
R.S.

**(NAMIT KUMAR)**  
**JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No