

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

CRM-M-19657-2023

Date of Decision: 21.04.2023

Surender Kumar and another

..... Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Manish Soni, Advocate, for the petitioners.

Mr. B.S. Virk, Deputy Advocate General, Haryana.

Mr. Tanmoy Gupta, Advocate, for the complainant.

Rajesh Bhardwaj, J.

The petitioners have approached this Court praying for grant of anticipatory bail to them in a case FIR No.43, dated 17.02.2023 registered under Sections 147, 148, 149, 323, 341, 379-B, 506 IPC (Section 325 IPC added lateron), at Police Station DLF Phase-I, District Gurugram.

As per facts of the case, the FIR was registered on the statement of the complainant, namely, Prem Singh Tanwar alleging therein that on 15.02.2023, when he was coming from his field on the tractor, two cars and one motorcycle came in front of his tractor and stopped him. Thereafter Surender son of Rampat (petitioner No.1) attacked on his left leg with iron rod and Pardeep son of Harpat (petitioner No.2) also attacked on his right leg with stick (sota). Thereafter, 7-8 boys came out of the cars with muffled faces and all of them opened attack on the complainant and his wife. They pulled him down from the tractor and gave him serious injuries. Surender broke his leg by giving blows from iron rod and snatched his gold chain. Request was made to take legal action against the accused. On the basis of the same, a formal FIR was registered and investigation commenced.

Apprehending arrest, the petitioners approached the Court of learned Additional Sessions Judge, Gurugram praying for grant of anticipatory bail, however, after hearing both the sides, the learned Court declined the same vide order dated 13.04.2023. Aggrieved by the same, the petitioners have approached this Court by way of filing the present petition for grant of anticipatory bail.

It has been vehemently contended by learned counsel for the petitioners that the petitioners have been falsely implicated in this case. He has submitted that the allegations made by the complainant side are false and the parties are at loggerheads for the last about 14 years and hence as an act of vengeance, the petitioners have been falsely implicated by the complainant in this case. He submits that both the sides are facing litigations against each other since long. He submits that during the investigation, the Police has recorded the statement of eye witnesses under Section 161 Cr.P.C. though they alleged regarding beatings by the petitioners, but they have denied the allegations regarding snatching of gold chain, hence, offence under Section 379-B IPC is not made out.

Learned State counsel as well as learned counsel for the complainant have opposed the contentions raised by learned counsel for the petitioners and have prayed for dismissal of the present petition.

Heard.

From perusal of the record, it is apparent that the complainant was waylaid by the petitioners and the co-accused. There are specific allegations that the petitioners were duly armed and they gave beatings with iron rod and stick (sota) to the complainant on his both legs. Besides this there are allegations regarding snatching of gold chain from him.

For the consideration of anticipatory bail, this Court is to see whether any *prima facie* case is made out against the petitioners or not. At this stage, the case is under investigation and there are injuries caused by the petitioners regarding which the complainant was medically examined as well. Whether offence under Section 379-B IPC made out or not, is a matter of investigation.

Hon'ble the Supreme Court in State represented by CBI Vs. Anil Sharma, (1997) 7 SCC 187 has held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable order under [Section 438](#) if the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disintering many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disintering offences would not conduct themselves as offenders.”

The Hon'ble Apex Court in plethora of judicial precedents including Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632, has time and again reiterated that while considering the anticipatory bail the Court is to take into consideration the factors like gravity of offence, chances of accused tampering with the evidence and probabilities of fleeing

from justice etc. The Court should be circumspect about the impact of its decision on the society as well. The anticipatory bail is an extraordinary discretion which can be exercised in the extraordinary circumstances.

Weighing the facts and circumstances of the case on the anvil of law settled, this Court is of the opinion that the petitioners do not qualify for exercising the extraordinary power by this Court in their favour. Resultantly, the petition being devoid of any merit is hereby dismissed.

21.04.2023
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No