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

CRM-M-26721-2023
Date of Decision: 26.07.2023

Ritesh Kumar @ Rishu and others

..... Petitioners

Versus

State of Punjab

..... Respondent

CRM-M-28325-2023

Ramesh Chander and another

..... Petitioners

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Roshan Lal, Advocate for
Mr. Bhawesh Chaudhary, Advocate,
for the petitioners (in both cases).

Mr. Sarabjit Singh Cheema, DAG, Punjab.

Mr. Ish Mahajan, Advocate,
for the complainant.

JASGURPREET SINGH PURI, J. (ORAL)

1. Both the petitions have been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioners and are being taken up together for final disposal with the consent of the learned counsel for the petitioners, since both the petitions arise out of the same FIR bearing FIR No.121 dated 21.04.2023, under Sections 323, 341, 506, 148, 149 & 452 of the IPC (Section 308 IPC added later on), registered at Police Station Rama Mandi, District Jalandhar.

2. CRM-M-26721-2023 was filed by the petitioner-Ritesh Kumar @ Rishu, Kamal and Mandeep Singh and CRM-M-28325-2023 was filed by the petitioner-Ramesh @ Ramesh Chander and Deepu @ Gaurav Mehra and in both the cases, the petitioners were granted interim bail by this Court vide orders dated 25.05.2023 and 20.07.2023 in CRM-M-26721-2023 and 01.06.2023 and 20.07.2023 in CRM-M-28325-2023.

3. As per the allegations made in the FIR, which was made on the basis of the statement made by the complainant, namely, Lovepreet Singh son of Piara Singh by alleging that he does the business of mobile repair. On 16.04.2023 at 10.00 p.m. his brother Jagroop Preet Singh was coming back to his house after paying obeisance in Tallan Sahib Gurudwara and when his brother reached near railway crossing near village Suchi, then on a scooter i.e. Activa one Kamal and another person who was sitting behind over the scooter, started arguments with his brother Jagroop. His brother came to his house and outside the house, the co-accused, namely, Kamal and his wife Kavita were hurling abuses. Thereafter, the father of the complainant, namely, Piara Singh made them understand and sent them.

4. Thereafter, during midnight at about 1.00 a.m., Kavita, Karmi, Meeto and Ramesh started hurling abuses outside the house of Jagroop Preet Singh for about 10-15 minutes. When they did not come out of the house then their neighbours came out and resisted them from hurling abuses. Thereafter, all the persons attacked on them. When the complainant and his family members came out, then all the accused persons attacked them also and Kavita raised a lalkara that now they will not be spared. In the meantime, Kamal husband of Kavita, Deepu, Rishu, Mani armed with datar, sticks started beating

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his family. Thereafter, when the complainant tried to close the gate, then Kamal hit the datar blow on his hand and Rishu, who was carrying a datar in his hand, hit the blow on his mother, namely, Daljit Kaur, which hit on the right side of her shoulder and chest. Ramesh hit the datar blow on his father Piara Singh which hit in his stomach. All of them continued to beat them for about 20-25 minutes. When Kamal hit the datar blow on the head of the complainant then he fell down on the ground then the accused persons raised lalkara and while giving threats fled from the spot.

5. Learned counsel for the petitioners submitted that all the petitioners in both the cases are named in the FIR by their nick names. He further submitted that initially the FIR was lodged under Sections 323, 341, 506, 148, 149 & 452 of the IPC and the interim bail was granted to the petitioners by a Co-ordinate Bench of this Court vide orders dated 25.05.2023 in CRM-M-26721-2023 and 01.06.2023 in CRM-M-28325-2023 in both the cases. Thereafter, during the investigation, the police added Section 308 IPC and qua that offence as well, the Co-ordinate Bench of this Court on 20.07.2023 also granted interim protection in both the cases. He also submitted that in both the cases, all the petitioners have joined investigation and they have co-operated with the investigation and therefore, the orders by which they were granted interim bail may be made absolute.

6. Learned counsel for the petitioners stated that the petitioners have joined the investigation two times and the police in connivance with the complainant has demanded money from them. He further submitted that the persons, who had actually inflicted the injuries were Kamal, Rishu and Ramesh. The aforesaid Rishu @ Ritesh Kumar and Kamal are petitioners No.1

& 2 in CRM-M-26721-2023 and Ramesh, who is petitioner No.1 in CRM-M-28325-2023 and submitted that the other petitioners, namely, Deepu @ Gaurav Mehra and Mandeep Singh @ Mani no injury was attributable.

7. On the other hand, Mr. Sarabjit Singh Cheema, learned Deputy Advocate General, Punjab, has vehemently opposed the grant of anticipatory bail on the ground that although all the petitioners have joined the investigation as per orders passed by this Court but the joining of their investigation was nothing but an empty shell. He further submitted that the Police did not get the weapons recovered from the petitioners because the petitioners have not co-operated with the investigation process and therefore, the petitioners have not co-operated with the investigation process despite interim protection granted by this Court. Therefore, they do not deserve the concession of anticipatory bail. He also submitted that during the investigation, it was found that severe injuries were caused to the complainant and his father, namely, Piara Singh as well as his mother and that was the reason as to why the provision of Section 308 IPC was added later on. He further submitted that it was the duty of the petitioners to have got recovered the weapons, since it is a case where actually the injuries have been caused but they have failed to co-operate with the investigation process in all respects.

8. Mr. Ish Mahajan, Advocate has caused appearance on behalf of the complainant and has also opposed the grant of anticipatory bail to the petitioners on the ground that the petitioners collectively caused injuries not only to the complainant but also to his parents and also to the neighbours, who had intervened for stopping them from raising the lalkaras. He also supplied a copy of the medical report of the complainant, Lovepreet Singh, in which it has

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been so stated that the ultra sound of abdomen was done which showed Subarachnoid Hemorrhage with small Pneumo-cephalous and fracture as decribed. He submitted that he could not produce the medical opinion of the father and mother but they were also injured severely and therefore, the provisions of Section 308 IPC were added by the Police during investigation.

9. I have heard the learned counsel for the parties.

10. All the petitioners were granted interim bail vide orders dated 25.05.2023 in CRM-M-26721-2023 and 01.06.2023 in CRM-M-28325-2023, respectively and thereafter, the provisions of Section 308 IPC were also added and this Court had also granted interim bail qua Section 308 IPC as well vide orders dated 20.07.2023 in both the petitions. However, the learned DAG, Punjab has specifically submitted on instructions that all the petitioners have although joined the investigation but they have not at all co-operated with the investigation process. Once this Court had granted interim protection to the petitioners, it was their duty to have co-operated with the investigation process. It is a specific case of the learned State counsel that they have not at all co-operated and they have not got recovered the weapons and therefore, the petitioners are required for custodial investigation.

11. So far as the contention raised by the learned counsel for the petitioners that they have joined the investigation twice and the police demanded bribe from them is concerned, the same cannot become a ground for grant of anticipatory bail to the petitioners in the absence of any specific affidavit in this regard. So far as the argument raised by learned counsel for the petitioners that out of the five petitioners in the present two cases, even as per the prosecution, only three petitioners had been attributed with injuries and at

least bail should be granted to the other two petitioners is concerned, the same is also devoid of merit in view of the fact that all of them had collectively formed an unlawful assembly and had allegedly beaten up the complainant and his parents.

12. In view of the aforesaid facts and circumstances and considering the gravity of offence, this Court does not find any merit in both the petitions and consequently, the same are hereby dismissed.

13. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

26.07.2023

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

1. Whether speaking/reasoned:	Yes/No
2. Whether reportable:	Yes/No