

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

CRM-M-30269-2023 (O&M)

Date of decision : 30.10.2023

Sardar and others

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Sarfraj Hussain, Advocate for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana for the respondent.

None for the complainant.

MAHABIR SINGH SINDHU, J.

Present petition under Section 438 of the Code of Criminal Procedure has been filed for grant of pre-arrest bail to the petitioner in FIR No.297 dated 25.12.2019, under Sections 148, 149, 323, 427 & 506 of the Indian Penal Code, 1860 (Section 307, IPC added later on), registered at Police Station Nagina, District Mewat.

(2) Above FIR was registered on the basis of statement made by complainant-Hasan Mohd. with the allegations that on 24.12.2019 at about 10:00 AM, when he along with his family members was present at his house, the accused Rafiq and Daud came to his house. They asked his son as to why they have released the water of their house in the drain. Son of the

complainant replied that water of their house and the mosque together goes in the drain. Thereafter, they dared the complainant and his son to release the water in the drain. Accused called their family members, who came armed with *Farsa*, *Lathi*, *Dandas*, *Gid* & stones and trespassed into the house of the complainant. Co-accused Rafiq inflicted a blow with *Farsa* on the head of Sabana, daughter of the complainant; Daud (petitioner No.2) inflicted a *Farsa* blow on the head of Barkati d/o Munshi; Sahban inflicted a *Farsa* blow on the head of Sayra w/o Basir; Sardar (petitioner No.1) gave a *lathi* blow on the right hand of Wakila w/o Haider Ali; Aleem gave a *Danda* blow on the eye of Jiya, aged two years; Shokeen (petitioner No.3) gave a *lathi* blow on the head of Atika d/o Nasruddin. Other accused also gave beatings to the family members of the complainant. On noise being raised by the complainant party, all the accused fled away along with their respective weapons.

(3) This Court, while issuing notice of motion on 13.06.2023, granted interim bail to the petitioners and which reads as under:-

“Contends that after investigation, the police deleted Section 307 IPC, but after a period of approximately one-and-half-year; again, the same very offence has been added without any basis. Also contends that the petitioners were already granted bail and they never misused the concession at any point of time. Further contends that there is no other criminal case pending against the petitioners.

Notice of motion for 06.07.2023.

On asking of the Court, Mr. Kiran Pal Singh, AAG, Haryana accepts notice on behalf of the respondent. He will verify the factual position and file a short affidavit in the matter.

Mr. Sahil Matharoo, Advocate appears on behalf of the complainant.

In the meanwhile, petitioners shall join investigation before the Investigating Officer. In the event of their arrest, the Arresting Officer would admit them to interim bail in the present case till the next date of hearing on furnishing adequate bail and surety bonds to his satisfaction. The petitioners shall also abide by all the conditions as envisaged under Section 438(2) of the Code of Criminal Procedure, 1973.”

- (4) Learned Counsel submits that in pursuance of the aforesaid order, petitioners have already joined the investigation and their custodial interrogation is not required.
- (5) Learned State Counsel, on instructions from Inspector Rattan Singh, also acknowledged that petitioners have joined investigation and as on today, their custodial interrogation is not required.
- (6) In view of above, interim order dated 13.06.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.
- (7) It is also made clear that petitioners shall fully co-operate with the Investigating Officer as and when called for further investigation.
- (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) It is made clear that in case of any recurrence on the part of the petitioner(s), the State of Haryana would be at liberty to move an application for recalling of this order.
- (10) Disposed off accordingly.

October 30th, 2023
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No