

CRM-M-34144-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 18.07.2023

Vikash Sharma

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Sarvjit Singh Khurana, Advocate for the petitioner.

Ms. SvaneelJaswal, Additional Advocate General, Haryana.

ARUN MONGA, J. (Oral)

Petitioner seeks anticipatory bail in criminal case bearing FIR No.88 dated 26.04.2023, registered under Sections 323, 427, 506 read with Section 34 and Section 307 (added later on) of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station Sector-6, Dharuhera, District Rewari.

2. According to the First Information Report (FIR), on 25th March 2023, around 10:00 a.m., when the complainant-Aman was heading towards Sector-10 to get a haircut, he was accosted by accused Nishu, who demanded Rs. 30,000/-from him. When Aman refused to comply, Nishu forcefully took his mobile phone and broke it.Later, Nishu called Aman to Sector-6, where the petitioner, Vikash, and another individual named Sanju were already present. They were carrying a Lathi, Danda, ice pick and an iron rod. Nishu struck Aman on the head with the iron rod, while Sanju hit his hands and feet with the Danda. Following that, the petitioner, Vikash, used an ice pick (Sua) to inflict grievous injury onthe body of the victim, which could have killed him.Assailants then left the scene, leaving the victim consciousness, threatening to kill him later.

3. Learned counsel for petitioner strenuously argues that MLR contained at Annexure P-2 states that the alleged grievous injury, on the back

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midline D-10 level penetrating the spine, was not caused by the petitioner. A totally contradictory medical report has been procured by the prosecution at the instance of complainant contained at Annexure P-3. As against spine, originally it was stated that it actually was a mere stab injury on right hemothorax and left pneumothorax. Said injury was also though opined to be dangerous to the life of the petitioner had he not been brought to hospital on time, however the contradiction in the two MLRs reflects that medical reports are not genuine.

3.1. Learned counsel for the petitioner further contends that on the basis of information obtained from private medical practitioner, Section 307 of IPC was added later on in the FIR. He further contends that petitioner is a young boy of 20 years of age. He further points out that co-accused Sanju had preferred a petition bearing CRM-M-31942-2023 before this Court for grant of anticipatory bail petition, and vide an order dated 06.07.2023 (Annexure P-5) interim relief has been granted and now that petition is fixed for hearing on 18.09.2023. He further submits that case of petitioner is at par with that of his co-accused Sanju.

3.2. Learned counsel for the petitioner would further urge that co-accused Nishuas well as complainant are known to each other and there was no intent to commit any crime but it was merely a street brawl amongst friends which turned ugly and led to registration of FIR.

4. Per contra, learned State counsel submits that the allegations against the petitioner are serious. He is the prime accused who used an ice pick to cause grievous injury, which could have been fatal. Complainant was lucky to have survived the same. She further points out that complainant remained admitted in hospital for five days.

5. I have heard the arguments. Investigation is at the nascent stage. I am of the view that at this stage, no opinion can be formed based on the purported medical contradictions, as has been pointed out by learned counsel for petitioner,

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so as to give any concession of pre-arrest bail to the petitioner. Given the injury attributed to the petitioner, interrogation of the petitioner is required to unearth the whole incident and to conclude fair and meaningful investigation. No parity can be claimed by petitioner with co-accused Sanju, who gave *Danda* blows on the hands and feet of complainant.I am of the viewthat petitioner does not deserve any concession of pre-arrest bail.

6. Dismissed. However, dismissal of the petition is not to be construed to mean that investigating officer must arrest the petitioner, if per his opinion, based on subsequent investigation, it is otherwise not required.

7. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

July 18, 2023
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No