

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

CRM-M-40423-2023
Reserved on: 09.10.2023
Pronounced on: 11.10.2023

Yogesh Sharma Petitioner
Vs.
State of Haryana Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr.Sumit Sangwan, Advocate, for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

DEEPAK GUPTA, J.

By way of this petition filed under Section 438 CrPC, petitioner prays for grant of anticipatory bail in case FIR No.149 dated 15.05.2023 registered at Police Station Dadri City, District Charkhi Dadri, under Sections 147/148/149/323/324/506 IPC (Sections 325/307/427 IPC added during investigation)

2. As per prosecution allegations, FIR was lodged on the complaint of one Ravinder @ Bania, who alleged that on 14.05.2023, he along with Rahul Saini was going to his friend Koki at Sainipura Mohalla, Dadri on a scooty, when a verbal spot took place with accused Rahul Saini. At about 10.00 PM, when he along with Sahil @ Dabar was going to his house on motorcycle and reached at Gaushala, 10-12 boys came on 4-5 motorcycles including Ankit, Rahul Jhajjari, Harsh @ Chanderpal and Rahul son of Krishan, who assaulted him with knife, lathis, dandas and bricks etc. At the sight of the co-villagers, the assailants fled away. It is also the case of the prosecution that 25 injuries were caused to the complainant

with sharp and blunt weapons and considering the number of injuries and the manner in which it was caused, Section 307 IPC was added. It is also the case of the prosecution that occurrence was captured on a CCTV.

3. It is contended by ld. counsel for the petitioner that petitioner is not named in the FIR; that co-accused Rohit @ Majariya, Rahul and Mohit Sangwan have already been allowed anticipatory bail by the Court of Additional Sessions Judge, Jhajjar. Ld. counsel further contends that even in the CCTV footage, petitioner is not seen causing any injury to the complainant; and that he has been falsely implicated on the basis of the supplementary statement made on 18.05.2023 and 05.06.2023 i.e., much after the date of occurrence.

4. Opposing the bail petition, ld. State counsel submits that though petitioner is not named in the FIR, but his name emerged during investigation, when he was nominated by the complainant on 18.05.2023 to be one of the assailants and was also identified in the CCTV footage. Ld. State counsel further submits that petitioner is involved in five more cases as per the details given in para-No.6 of the status report and that custodial interrogation of the petitioner is required so as to recover the weapon used in the crime.

5. I have considered submissions of both the sides.

6. It was contended by the petitioner that though he is visible in the CCTV footage, but has not caused any injury; whereas respondent/State alleged that petitioner was seen in the CCTV footage causing injuries to the complainant, so as per the direction of this Court, the CCTV footage has been produced in the Court in the pen drive. Along with the pen drive,

prosecution also placed on record the details of whatever is visible in the CCTV footage.

7. As per the inspection memo of the CCTV footage contained in the pen drive, seven persons are visible in the footage. As was admitted by both the sides, petitioner is visible wearing a black T-shirt with strips on the shoulder. As per the memo, petitioner is neither armed with any weapon nor is seen in the CCTV footage causing any injury to the complainant. Rather, it is Rahul Jhajjari, who is stated to be holding a knife. Ankit is mentioned to be visible having danda. Mohit Sangwan and Mohit Balmiki are stated to be visible in the CCTV footage, hitting the injured with bricks, whereas Harsh @ Buggu is holding danda. Even on playing of the CCTV footage in Court, it is found that petitioner, as identified by both the sides, is visible trying to separate the injured from the other assailants. He is neither holding any weapon nor is seeing causing any injury.

8. In the facts and circumstances as above and having regard to the role attributed to the petitioner, petition is allowed. Petitioner is directed to be released on bail in the event of his arrest to the satisfaction of arresting officer, subject to his joining the investigation and co-operate in the same. He shall also abide all conditions contained in Section 438(2) Cr.PC.

11.10.2023
Vivek

(DEEPAK GUPTA)
JUDGE

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |