

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

Date of Decision:17.10.2023

(i) CRM-M-40362-2023

Mohit ...Petitioner

vs.

State of Haryana ...Respondent

(ii) CRM-M-49512-2023

Sittu ...Petitioner

vs.

State of Haryana ...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Aditya Sanghi, Advocate
for the petitioner in CRM-M-40362-2023

Mr. S.D.Bishnoi, Advocate
for the petitioner in CRM-M-49512-2023

Ms. Sheenu Sura, DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. This order shall dispose of abovesaid two petitions i.e. CRM-M-40362-2023 titled as Mohit Vs. State of Haryana and CRM-M-49512-2023, titled as Sittu Vs. State of Haryana, whereby the petitioners have prayed for grant of concession of regular bail in case FIR No. 255, dated 23.06.2023 under Sections 148, 149, 308, 323, 324, 325, 506 of IPC, at Police Station Meham, District Rohtak.

2. The FIR in the present case was got registered by Samir son of Salin. As per him, he was having friendship with Leelu son of Sunder and due to this, Sandeep son of Antar Rogi was having grudge against him. At about 10/11.00 a.m. on 21.06.2023, he was taken cold drink at the shop of his friend Hatri alias Anand Pandit and in the meantime, 30-35 boys came there on 10/11 motorcycles and were carrying iron pipes/sticks in their hands. After reach there, they started beating the complainant with iron pipes and sticks. Sandeep son of Attar had caused a blow with iron pipe on the head of the complainant, whereas Ankit son of Bobby had hit him with a knife on his lips. Sankit son of Bobby attacked with him an iron poker and the poker had hit him on his back. Praveen Goyat, Jatin and Sachin were also there, who were also carrying iron pipes and sticks in their hands and had hit on his head and caused many injuries to him. Other 25/30 unknown persons had also inflicted many injuries with sticks/iron pipes and also threatening him. A crowd had gathered there and on seeing many persons, those persons fled away from the spot, after extending threats to him. With these broad allegations, the FIR in the present case was got registered by the complainant.

3. Learned counsel for the petitioners submit that the petitioners were not named in the present case by the complainant and there is no specific attribution to both the petitioners. It is further submitted that both the petitioners were arrested on 05.07.2023, on the basis of the disclosure statement suffered by co-accused. Except the disclosure statement suffered by the co-accused, there was no other evidence, connecting the petitioners with the alleged crime in any manner. Learned counsel further submit that they are in

custody for the last more than 3 months and the challan has already been presented before the competent Court and the case is listed for framing of charges against them. Still further, the injured in the present case has already been discharged from the hospital. Learned counsel further submit that in the present case, no offence under Section 308 IPC is made out against the petitioners, on the strength of the medical evidence and the said offence has been added only to make the offence graver.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioners on the ground that the presence of both the petitioners could be ascertained from the CCTV footage, which has been collected during the course of investigation. She further contends that the injured had suffered serious head injury, for which he was operated upon. However, it is the case of the prosecution that the said injury is not attributed to the present petitioners.

5. I have heard the learned counsel for the parties and perused the record.

6. The petitioners were not named in the present case initially by the complainant and their names surfaced only during the course of investigation, while the statements of co-accused were recorded in police custody. Even challan has already been presented against the present petitioners and even as per the said challan, there is no specific attribution to both the petitioners. Thus, further custody of both the petitioners will not serve any meaningful purpose.

7. Without commenting on the merits of the case, both the petitions are allowed and the petitioners are ordered to be released on bail subject to their furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty

Magistrate/Chief Judicial Magistrate subject to the following conditions:-

- (i) *The petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade them to disclose such facts to the Court or to any other authority.*
- (ii) *The petitioners shall remain present before the Court on the dates fixed for hearing of the case.*
- (iii) *The petitioners shall not absent themselves from the Court proceedings except on the prior permission of the Court concerned.*
- (iv) *The petitioners shall surrender their passport, if any, (if already not surrendered), and in case they are holder of the same, they shall swear an affidavit to that effect.*
- (v) *The petitioners shall also file their affidavit before the concerned Court, mentioning their ordinary place of residence and number of mobile phone, which shall be used by them during the pendency of the trial. In case of change of place of residence/mobile number, they shall share the details with the concerned Court/learned Trial Court.*
- (vi) *In case, the petitioners involve in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a petition for cancellation of bail granted to them.*
- (vii) *The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioners.*
- (viii) *The petitioners shall report every 1st Monday on English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark their presence by making an entry in the rojnamcha. In case, they do not*

report on every 1st Monday before the concerned SHO, it shall be viewed seriously and the concession granted to them shall be liable to be cancelled and the State of Haryana shall be at liberty to move an appropriate application in this regard.

17.10.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

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