

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1.

CRM-M-48881-2023

2023: PHHC: 161083

RAJBIR SINGH

. . . . Petitioner

Vs.

State of Haryana

. . . . Respondent

2.

CRM-M-49038-2023

2023: PHHC: 161086

SUSHIL @ SHILU

. . . . Petitioner

Vs.

State of Haryana

. . . . Respondent

Reserved on: 12.12.2023
Pronounced on: 15.12.2023

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Sumit Puri, for the petitioner(s).

Mr. Sumit Jain, Addl. A.G., Haryana.

DEEPAK GUPTA, J.

In the two petitions titled above, both filed under Section 439 CrPC, petitioners pray for their release on regular bail in case FIR No.109 dated 02.04.2023 registered at Police Station Bhuna, Fatehabad under Sections 323, 34, 341, 365, 379-B of IPC [Section 201, 325 and 367 added later on].

2. (i) As per prosecution case on 02.04.2023 at about 6-6:30 PM, **Binder** s/o Chjju Ram; and his cousin **Kuldeep** son of Leela Ram were going near water works in Village Jandli Kalan on motorcycle. As they reached near the water works, **Sushil @ Shilu** s/o Rajbir (*petitioner in CRM-M-49038-2023*) and **Rajbir Singh**

s/o Tara Ram (*petitioner in CRM-M-48881-2023*) came on a motorcycle. **Krishna** wife of Rajbir; and **Sunil** son of Rajbir were sitting nearby. They got stopped the motorcycle of the complainant-Binder and then both of them gave iron rod blow on both feet of Binder and also caused injuries to his cousin Kuldeep. It is further alleged that Sunil and Krishna also inflicted injuries with iron rod. When complainant Binder and his cousin Kuldeep made the noise, Sushil @ Shilu kept his hand on his mouth. Both of them were taken about two killas ahead, where again injuries were caused to them. An amount of ₹2500/- was snatched from the pocket of Binder. It was alleged that all the four assailants i.e., Rajbir Singh (*petitioner in CRM-M-48881-2023*), Sunil, Sushil @ Shilu (*petitioner in CRM-M-49038-2023*) and Krishna had caused injuries to the complainant-Binder and his cousin Kuldeep due to an old grudge. During investigation, statement of Kuldeep was also recorded, who disclosed that as he was trying to take out mobile from his pocket to connect, then Rajbir Singh had snatched his mobile, broken its sim and threw it away.

(ii) FIR was registered on the statement of Binder. Medico Legal Reports were collected, which revealed seven injuries on the persons of Binder and three injuries on the person of Kuldeep. It was further revealed that one injury on the person of Binder was grievous and the rest were simple. Two injuries on the person of Kuldeep were found grievous and one was simple. It was also found during investigation that Sunil and Krishna were innocent and rather, they were present at their home at the time of occurrence and their names were incorporated due to an old grudge.

(iii) Sushil @ Shilu (*petitioner in CRM-M-49038-2023*), after his arrest got recovered an iron rod used in the crime besides snatched mobile of injured Kuldeep. Petitioner Rajbir got recovered ₹500/- besides iron rod used in the crime. After

completion of investigation, final report under Section 173 CrPC has already been filed.

3. (i) It is contended by Id. counsel for both the petitioners that the petitioners have been falsely implicated. In fact, on 02.04.2023, when petitioners Rajbir Singh and his son Sushil @ Shilu were going back to their home from the fields, complainant of the FIR Binder along with his cousin Kuldeep and two others, waylaid them. They were holding iron rods. They started hurling castiest abuses to Rajbir Singh (*petitioner in CRM-M-48881-2023*) and to his son Sushil @ Shilu (*petitioner in CRM-M-49038-2023*). As petitioner protested, Kuldeep gave iron rod blow on the head of petitioner-Rajbir Singh; whereas, complainant-Binder gave danda blow on the right shoulder of Sushil @ Shilu. They caused many injuries to them. Both the petitioners Rajbir Singh (*petitioner in CRM-M-48881-2023*) and Sushil @ Shilu (*petitioner in CRM-M-49038-2023*) were admitted to MAMC, Agroha where their MLR was prepared. Despite receiving intimation, police did not record their statement on 02.04.2023. In the meantime, complainant-Binder along with his cousin Kuldeep got recorded the present FIR against the petitioners and their family members. Next day i.e., on 03.04.2023, Police recorded the statement of son of the petitioner Rajbir Singh i.e., Sushil @ Shilu (*petitioner in CRM-M-49038-2023*) and then FIR No.111 dated 03.04.2023 was registered against the complainant-Binder and Kuldeep under Sections 323, 34, 341 IPC and 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Copy of the FIR is Annexure P4.

(ii) Ld. counsels contend that it is a case of version and cross-version, in which both the parties have sustained injuries. Ld. counsels also contend that it is the complainant party, which was aggressor and caused injuries to both the

petitioners. Ld. counsel further contends that falsity of the version of the complainant-Binder will be seen from the fact that two accused named in the FIR i.e., Sunil and Krishna were found innocent during investigation. It is submitted that trial may take time to conclude and so, petitioners be released on regular bail.

4. Ld. State counsel opposed the bail petition by pointing out towards the gravity of offence and the number of injuries caused to complainant-Binder and his cousin Kuldeep. However, it is conceded that on the version given by Sushil @ Shilu (*petitioner in CRM-M-49038-2023*), FIR No.111 dated 03.04.2023 was registered against the complainant-Binder and Kuldeep under Sections 323, 34, 341 IPC and 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. It is also disclosed that four injuries each were found on the person of Rajbir Singh and Sushil @ Shilu as per their respective MLRs.

5. I have considered submissions of both the sides and have appraised the record carefully.

6. It is evident from the record that it is a case of version and cross-version, in which both the parties have sustained injuries. Simply because the complainant party received more injuries comparing to the petitioners, it cannot be adjudicated at this stage as to who was the aggressor, as it will be a matter of trial. Both the petitioners have received four injuries each, as per the status report. As per the investigation conducted by the Police, Sunil and Krishana, named by the complainant-Binder in the FIR to be amongst the assailants, have been found innocent. Though in FIR NO.111 dated 03.04.2023 lodged on the statement of petitioner Sushil @ Shilu, injuries to Binder and Kuldeep have been explained, but no such explanation has been given in the FIR lodged on the statement of Binder regarding the injuries found on the person of Rajbir Singh and Sushil @ Shilu.

Inimical relations between the parties ever-since 2013 have been found as per the investigation. Petitioners are in custody ever-since 05.05.2023, as per the custody certificate placed on record and have no criminal antecedents.

7. Having regard to all the aforesaid facts and circumstances, but without commenting anything further on merits of the case, no purpose will be served by keeping the petitioners detained. Therefore, both the petitions are allowed. Petitioners are admitted to regular bail on their furnishing requisite bail bonds and surety bonds to the satisfaction of the trial Court/ Duty Magistrate concerned, on usual terms and conditions.

It is made clear that nothing observed in this order should be taken as an expression of opinion on the merits of the case.

Pending application(s), if any, stands disposed of.

A photocopy of this order be placed on the file of another connected case.

15.12.2023

Vivek

(DEEPAK GUPTA)

JUDGE

1. Whether speaking/reasoned?

Yes

2. Whether reportable?

No