

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

108

CRM-M No.56851 of 2023 (O&M)
DATE OF DECISION: 09th NOVEMBER, 2023

Sham Lal and others

.... Petitioners

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. S.K. Choudhary, Advocate for the petitioners.

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RAJBIR SEHRAWAT, J. (Oral)

1. The present petition has been filed by the petitioners under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No.109 dated 26.10.2023 registered under Sections 458, 323, 325 and 34 IPC at Police Station Sadar, District Pathankot.

2. It is submitted by learned counsel for the petitioners that the case against the petitioners is totally concocted. The petitioners are not involved in the crime as alleged against them. Even as per the story of the prosecution, the offences alleged against the petitioners are under Sections 323 and 325 IPC, which are bailable in nature. Only non-bailable offence involved in the case is under Section 458 IPC. However, the involvement of this offence would be moot point which is to be proved during the trial. Otherwise, undisputedly, the FIR has been registered against the petitioners after three days of the incident. The police had not registered the FIR on the version given by the petitioners

despite the fact that the MLR of two of the petitioners were prior in time, prepared on 24.10.2023, whereas, the MLR of the complainant side were prepared on 25.10.2023. In fact, the police have not acted fairly in the matter. In any case, the petitioners are ready to join the investigation as and when called by the Investigating Officer. There is no other case against the petitioners. Therefore, the petitioners deserve to be protected against their arrest.

3. Notice of motion.

4. Mr. Sandeep, Additional Advocate General, Punjab, accepts notice on behalf of the State.

5. Learned State Counsel, being instructed by ASI Surinder Singh, has submitted that the petitioners had caused injuries on the vital part of the body of son of complainant, namely, Satnam Singh. The CT scan of nose of son of complainant shows fracture of nasal bone. Therefore, the petitioners cannot assert to be innocent. However, it is not disputed by learned State counsel that the MLR of the petitioners were prepared prior in time showing them also to be injured; and despite that the FIR was registered after three days of the incident; even that on the version given by the complainant and not on the version given by the petitioners. It is also not disputed that there is no other case against the petitioners and that the offences, relating to the injuries, invoke so far, are bailable in nature.

6. In view of the above, but without commenting any further upon merits of the case, the present petition is allowed. The petitioners are granted concession of anticipatory bail. Therefore, it is directed that in case of their arrest, the petitioners shall be released on bail subject to

their furnishing bail bonds/surety bonds to the satisfaction of Arresting/Investigating Officer. However, it is further directed that the petitioners shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

09th NOVEMBER, 2023
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(RAJBIR SEHRAWAT)
JUDGE

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