

SR. No.312+102

CRM-M-60803-2023
Date of decision:07.12.2023

Saud...Petitioner

Versus

State of Haryana...Respondent

CRM-M-60957-2023

Afsar...Petitioner

Versus

State of Haryana...Respondent

CRM-M-61390-2023

Enam...Petitioner

Versus

State of Haryana...Respondent

CORAM: HON’BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr. Siddarth, Advocate for the petitioner in CRM-M-60803-2023.

Mr. Nikhil Mittal, Advocate for the petitioner in CRM-M-60957-2023.

Mr.Akshit Aggarwal, Advocate, for the petitioner in CRM-M-61390-2023.

Mr. Gaurav Gurcharan Singh Rai, DAG, Haryana.

Ms. Prarthana Duggal, Advocate for Mr. Namit Khurana, Advocate for the complainant.

N.S. SHEKHAWAT, J.

1. This order shall dispose of above-said three petitions as the same have arisen out of the same FIR.

2. The petitioners have filed the above-said three petitions for quashing of FIR No.417 dated 22.08.2023 registered under Sections 148/149/307/323/427 IPC (Section 120-B IPC added later on) and under Section 25 of the Arms Act at Police Station, Yamuna Nagar.

3. In the present case, the FIR has been registered on the basis of the statement made by Shahrukh Ali and the said statement is reproduced below:-

“.....that I am a resident of the above address and I have been doing agriculture and business of property dealing. On 22.08.2023, I along-with my cousin Sadiq son of Matloob Hasan resident of village Todarpur, Amir Khan Hussain son of Galib resident of village Todarpur and Hussain son of Suleman resident of village Todarpur, in my car make 'Creta' bearing Registration No.HR-02AN-6059 were going from Village Todarpur to Saharanpur-Ambala Highway and I was driving the car myself. At about 6:00 PM, when we reached in front of T.T. Plywood within the area of Village Todarpur, then Irshad son of Aliyas and Mosim son of Meer Hassan residents of village Todarpur got stopped my car by making a gesture. When I stopped the car and we all alighted from the car., Mosim, Irshad and their companions, who were standing at a distance came there in their cars which included Aadil @ Vasid son of Ashiq Ali, Enam son of Adrish, Harun son of Kamil, Naushad son of Aliyas, Riyasat Ali son of Kamil, all residents of village Todarpur and Ashique Ali son of Yusuf, Saud son of Ikram, residents of village Shadipur who were present at some distance on their motor cycles and cars make 'Swift' in the colour white and XUV in the colour black, came near them. I could not note down the registration numbers of said motor cycles and car, but identified the XUV car to be belonging to Rahul son of Asra resident of village Daulatpur. At the same time, my cousin Rufal son of Matloob Hassan resident of village Todarpur, came at the

spot in his car bearing Registration No.HR-02J-631 make 'Ritz'. In the meantime, Mosin gave a country made pistol to Irshad, who with intent to kill complainant fired a shot, which went away by touching his right hand and thereafter, he fired other two/three shots. Out of fear, I ran inside the plywood factory in front of me. Later on, I came to know that Mosim along with his companions caused injury on the head of my brother Amir Khan with the weapons brought by them and Mosim, Irshad, Aadil Alias Vasid, Enam, Harun, Naushad, Riyasat, Aashiq, Saud and their other companions also damaged our cars very badly which were bearing Registration No.HR-02AN-6059 make Creta car and Ritz car bearing Registration No.HR-02J-6331 with the dandas etc. Mosim, Irshad, Aadil Alias Vasid, Enam, Harun, Naushad, Riyasat, Aashiq, Saud and their other companions have imploded injuries with the intention to kill on me and my brother Amir Khan and Hussain have inflicted illegal injuries on us and have also damaged our cars badly. A prayer for is made to take legal action against them. I have made my written statement, have read it and listened to it and find it to be right.”

4. Learned counsel for the petitioners submit that even though the petitioners have been named in the FIR and their presence has been shown at the place of occurrence, however, no specific role has been attributed to the present petitioners. Learned counsel further submit that in the present case complainant-Shahrukh Ali (injured) had suffered two injuries including one fire arm injury and Amir Khan (injured) had suffered five injuries. All the injuries except the fire arm injury have been declared to be simple in nature. Even both the injured had suffered seven injuries in totality, however, the complainant side has implicated 22 accused from the side of the petitioners.

Learned counsel next contend that in the cases in hand, it has been alleged

that Irshad had fired the shot at complainant-Shahrukh Ali with an intention

to kill him and the said injury had led to the addition of the offence punishable under Section 307 IPC in the present case. However, the said injuries have been attributed to Irshad and no specific injury has been attributed to the present petitioners. Apart from that, vide order of even date passed in CRM-M-60305-2023, accused Julfan has also been granted the concession of anticipatory bail. Furthermore, Naushad, who is also similarly placed, has also been granted the concession of interim anticipatory bail by this Court vide order dated 06.11.2023 passed by this Court in CRM-M-49792-2023. Moreover, four accused, namely, Rajul @ Golu, Tassavar, Irshad @ Riyasat and Tayab Hassan @ Tayab were arrested by the police, but they have been admitted to bail.

5. On the other hand, learned State counsel assisted by the learned counsel for the complainant, have vehemently opposed the submissions made by the learned counsel for the petitioners on the ground that the allegations levelled against the present petitioners and his co-accused are serious in nature. Even the presence of the petitioners was established during the course of investigation and therefore, the petitioners do not deserve the concession of anticipatory bail.

6. I have heard the learned counsel for the parties and perused the case file carefully.

7. From the perusal of case file, it is apparent that even though the petitioners were named in the FIR, but there is no specific attribution to all of them. Apart from that, four accused, namely, Rajul @ Golu, Tassavar, Irshad @ Riyasat and Tayab Hassan @ Tayab have been admitted to bail and 22 persons have been involved in the case.

8. In view of the above-said discussion and without commenting on the merits of the cases in hand, all the three petitions are allowed. The petitioners, namely, Saud, Afsar and Enam are granted the concession of anticipatory bail, subject to the conditions as provided under Section 438(2) Cr.P.C. It will be open for the Investigating Officer to call the petitioners to join the investigation, if so required, by issuing a written notice in this regard and they shall be abide by the conditions mentioned in Section 438(2) Cr.P.C.

(N.S. SHEKHAWAT)
JUDGE

07.12.2023
mks

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO