

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

112

2023:PHHC:157189

CRA-S-3638-2023

Date of decision: December 8th, 2023

Lokesh Kumar

.....Appellant

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. G.C. Shahpuri, Advocate
for the appellant.

MANJARI NEHRU KAUL, J. (ORAL)

The appellant is impugning the order dated 22.11.2023 passed by learned Additional Sessions Judge, Palwal, whereby his application under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No.276 dated 01.10.2023 under Sections 323, 506, 452, 302, 34 of the Indian Penal Code, 1860 and Section 3 of the SC/ST Act registered at Police Station Hassanpur, District Palwal, has been dismissed.

2. Learned counsel for the appellant submits that the appellant, who is serving in the Indian Army, was on leave when the occurrence in question took place. In fact, the entire family of one Jaibir has been implicated in the FIR in question by attributing some role or the other to them in the murder of Thakur Lal. Learned counsel further submits that even otherwise, assuming for the sake of argument, though not conceded, that the appellant was indeed present when the occurrence took place in the intervening night of 29.09.2023 and 30.09.2023, it was co-accused Rakesh, who had

inflicted an axe blow on the head of the deceased, which ultimately proved fatal for him. Learned counsel submits that the appellant had been roped in only with the aid of Section 34 of the IPC, for which he deserved to be extended the concession of anticipatory bail.

3. I have heard learned counsel for the appellant and perused the relevant material on record.

4. A perusal of the FIR, which was lodged at the instance of the mother of the deceased, reveals that the accused including the appellant, trespassed into her house on the fateful day, armed with lethal weapons like axe and *danda*; thereafter all of them attacked the deceased while he was asleep, the wife of the deceased, Kajal, who too was present there, was not spared and physically assaulted by the accused. All the accused, assuming the deceased to be dead, thereafter, fled away from the spot. However, on being removed to the hospital by the complainant, the deceased who was in a critical condition, died a couple of days later. *Prima facie*, the occurrence in question comes across as a premeditated attack, wherein the appellant along with the co-accused descended on the house of the deceased and all of them inflicted various injuries on the deceased and his wife. In the wake of the serious allegations levelled in the FIR, more so since the appellant stands not only named therein but a role too has been attributed to him in the crime in question, this Court does not deem it fit to extend the extraordinary concession of anticipatory bail to the him.

5. The instant appeal, therefore, stands dismissed.

6. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

December 8th, 2023
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No