

2024:PHHC:014815

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

214

CRM-M-1582-2024

Date of Decision : January 25, 2024

RAKESH CHUGH AND ANOTHER

.....Petitioners

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Vipin Pal Yadav, Advocate
for the petitioners.

Mr. Abhinash Jain, AAG, Haryana.

Mr. Ankur Lal, Advocate,
for the complainant.

KULDEEP TIWARI. J.(Oral)

1. Through the instant second petition, the petitioners crave for indulgence of this Court for his being enlarged on pre-arrest bail, in case FIR No.393, dated 28.11.2023, under Sections 147, 148, 149, 307, 323, 427, 435, 447 and 506 of the IPC, and under Section 25 of the Arms Act, 1959, registered at Police Station Kasola, District Rewari.

ALLEGATIONS AGAINST THE PETITIONER

2. In the instant matter, the prosecution agency was set into motion on a complaint made by one Rajbir on dated 28.11.2023.

3. The relevant extract of the FIR reads as under:-

“To Mr. SHO Saheb Police Station Kasola District Rewari is requested that I Rajbir Singh, son of Shankar Singh, resident of village Iwana, Police Station Kasola District Rewari, I am a permanent resident of village Iwana and live with my family in a house built in my fields behind Gurutech Company in village

Iwana. On 26.11.2023, he along with family members was at home. His sister-in-law (Bhabhi) had come. His brother Ranjeet with his family had also constructed houses in the fields. At about 01:00 PM, in the noon, 10-15 vehicles including one JCB, one tractor and several bikes were brought by 80-90 persons and stopped on the road. All persons armed with lathi danda and weapons forcibly entered the fields and started plying tractor and JCB. They made noise. His family members came to the fields. Jasrath, Malkhan, Ranjeet, Bhupender, Prem Singh, Ajay Singh, Narayan and Bhagirath came in fields. In the meantime, Rakesh Chugh and Rakesh Kumar were with those persons. They stated that they should hurry up. Meanwhile, Rakesh Chugh and Rakesh Kumar and the persons assaulted them with lathi-danda and stones A and they ran towards their houses. The persons who came with Rakesh Chugh and Rakesh Kumar fired on them. Sajjan Yadav with intention to kill him fired a shot towards him and he had narrow escape. Other 3-4 persons were also armed with weapons fired towards him. The persons who had come with Rakesh Chugh and Rakesh Kumar forcibly entered their houses. Rakesh Chugh and Rakesh Kumar asked that they had to vacate houses and land. All the persons inflicted various blows of lathi danda, stones and hurled abuses. Rakesh Kumar started misbehaving with his Bhabhi and pressed her under the feet and knee. Her chest was pressed. Rakesh Chugh and Rakesh Kumar asked others to demolish and put fire to the houses. They had put fire tractor No.HR-36AG-7596 of his nephew on fire. The persons broke windowpanes of the houses and vehicles of our neighbors. After that these people ran away and threatened to vacate the farm and house or else they will kill them. Some People started running towards the vehicles and on the spot, Sajjan Yadav Qutubpur Rewari was carrying a gun in his hand and three or four other persons were also carrying weapons and were firing while running away, people who had come to fight on our fields and houses out of them some persons namely Vicky Vairawas, Sandeep alias Pitar Shahbazpur, Dinesh Shahbazpur, Rohit Shahbazpur, Amit Lalpur was known by my son Himmat. And there were 3-4 other men who had weapons, but I don't know their names. Some people also had white inflammable substances with them and I don't know the other 80-85 people. While leaving, they started threatening us to vacate this land, farm and house, and told us to run away as this land is ours, we will eliminate you before the court's decision and this is just a trailer. These people brought with them vehicle number HR36AJ3669 SWIFT HR36AN8081 FORTUNER, a Sonalika tractor, a Mahindra tractor and a JCB, which they left behind and ran away, and ran away with other tractors, vehicles and bikes. During this time, I got serious injury on my left leg and rib and other members of my family Jasrath Singh son of Shankar Singh, Malkhan son of Shankar Singh, Ranjit son of Shankar Singh, Bhupendra, Prem Singh, Ajay Singh, Narayan, Bhagirath and Meena Devi wife LT. Babulal has also suffered serious injuries, and only they can tell about their injuries. My family members had also informed about the incidence to police by calling 112. I will give you some video footage of this incident later. You are requested to inform Rakesh Chug S/o Bodhraj Mohalla Banjarwada Rewari resident of Mohalla Banjarwada Rewari, Rakesh Kumar S/o, who had quarrel with me and my

family Dayanand resident of village Kumbhawas Rewari, Sajjan Yadav resident of Qutubpur Rewari, Vicky Vairyawas, Sandeep alias Pitar Shahbazpur, Dinesh Shahbazpur, Rohit Shahbazpur, Amit Lalpur along with Jarwan who came along with Dhani, I can identify the above mentioned persons. 80- 85 persons should be searched and legal action should be taken against them. SD RAJBIR SINGH son of Shankar Singh resident of Dabana police station Kasola district Rewari 9467784641 applicants Jasrath Singh son of Shankar Singh, Malkhan son of Shankar Singh, Ranjit son of Shankar Singh Bhupendra, Prem Singh, Ajay Singh, Narayan, Bhagirath, Meena Devi wife Babulal resident village Dawana Police station Kasaula.”

3. It is a case, where a mob of 80-90 people in order to take the possession went to the place of occurrence, armed with deadly weapons, caused injuries to 10 people of the complainant party, the injuries given in the present case are of both simple and grievous in nature.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PETITIONER

5. Learned counsel for the petitioners submits that in fact the complainant party were the aggressor, as they have caused serious injuries to one of the persons belonging to the accused party i.e. Aman.

6. To lend vigour to his argument, he draws attention of this Court to the Annexure P-3 which is a CT-Scan report.

7. He further submits that the petitioners have purchased the said land in question legally, therefore, they have every right to enter in the said land.

8. He further submits that the custodial interrogation of the petitioners is not required, as yet the investigating agency is to ascertain who are the real aggressors.

9. Further he submits that the injuries which were suffered by

the accused persons are in fact simple in nature, except the one person who suffered serious injuries.

10. He next submits that the videography which was prepared by the complainant party, and the accused party, have never been examined by the investigating officer, and only the version of the complainant party was considered to be a gospel truth.

11. He further relies upon judgments passed by a co-ordinate Benches of this Court, to lend vigour to his argument that petitioners are entitled to asked for relief of pre-arrest bail. The said judgments are:-

- i. Himanshu vs. State of Punjab and another;
(CRM-M-22290-2021, decided on 04.06.2021).
- ii. Sandeep Shama vs. State of Punjab
(CRM-M-31771-2020 decided on 08.10.2020)
- iii. Randhir Singh @ Dheera vs. State of Punjab
(CRM-M-22715-2022, decided on 15.05.2023)
- iv. Bimla and another vs. State of Haryana.
(2015 (25) RCR (CrI.) 309).

SUBMISSIONS OF THE LEARNED STATE COUNSEL AND COMPLAINANT

12. Mr. Ankur Lal, Advocate, has caused appearance on behalf of the complainant, through a validly executed power of attorney in his favour. The same is taken on record.

13. Both the counsel have opposed the asked for relief on the ground that it is a case where petitioners who were subsequent purchasers, in order to get forceful possession of the said land in question hired the goons, who not only attacked the complainant party, but also entered their houses and caused mischief by fire.

14. Both learned counsel draw attention of this Court to the

specific allegations *qua* the petitioners, where the molestation with a woman of the complainant party is there.

15. Status report dated 20.01.2024, by way of an affidavit of Sh.Narender Kumar, DSP, Bawal, District Rewari, has been filed, by the learned State counsel, which is taken on record.

ANALYSIS

16. This Court has examined the entire records and submissions made by both the parties concerned, as well as the detailed reply filed on behalf of the State.

17. The petitioners have not disputed the occurrence which took place on dated 26.11.2023, and that they were present at the place of occurrence, however, it was argued that petitioner no.1-Rakesh Chug, was not there. But the cross-complaint made by the petitioners party clearly spells out that the occurrence in fact has taken place on dated 26.11.2023, and the 10 people from the complainant party, have suffered injuries (some of them are serious in nature) and empty cartridges were also recovered from the place of occurrence.

18. The allegations against the petitioner are serious in nature as after purchasing the share in joint land, petitioner alongwith a group of persons tried to get forcible possession of the said land. No only that they also entered into the house of the complainant and caused mischief by setting fire to the house and vehicle of the complainant.

19. This Court at this stage, is refraining itself to give finding with regard to the fact that who were the aggressors.

20. On perusal of the above, this Court is of the view that the present petitioners do not deserve the concession of pre-arrest bail.

FINAL ORDER

21. Considering the above facts and circumstances of the case, where a specific role is assigned to the petitioners, this Court does not deem it appropriate to grant pre-arrest bail to the petitioners.

22. Hence, the instant petition is hereby **dismissed**.

23. It is made clear that the all issues, circumstances and the arguments raised before this Court, have been considered only to examine the entitlement of the petitioners for pre-arrest bail.

January 25, 2024
dharamvir

(KULDEEP TIWARI)
JUDGE

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