

221 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-1217-2024
Date of Decision: 15.01.2024

Darshan and another ...Petitioners

VS.

State of Haryana ...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Kuldeep Singh Siwach, Advocate for
Mr. Lakhwinder Singh Dandiwal, Advocate, for the petitioners.

Ms. Sheenu Sura, DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. Status report by way of an affidavit of Deputy Superintendent of Police, Fatehabad has been filed on behalf of the respondent-State in Court today and the same is taken on record.

2. The petitioners have filed the present petition under Section 438 of Cr.P.C., with a prayer to grant anticipatory bail to them in case FIR No.480 dated 07.09.2023, registered under Sections 148, 149, 323, 324 of IPC and Sections 225, 326 of IPC added later on, at Police Station Sadar Fatehabad, District Fatehabad.

3. Learned counsel for the petitioners contends that both the petitioners are specifically named in the FIR, however, no injury has been attributed to both the petitioners. He further contends that the petitioners were arrested in the present case on 25.09.2023 and were ordered to be released on bail. Even, no recovery was effected from them. However, later on, the injuries suffered by Gurpreet and Gurtek Singh were declared to be grievous in nature and the offence under Section 326 IPC was added in the present case. He

further contends that injuries, which led to the addition of offence under Section 326 IPC in the present case, were not attributed to the present petitioners, rather the said injuries were attributed to Sonu Masih, co-accused. Sonu Masih has already been arrested by the police and the knife has been recovered from him. Thus, the custodial interrogation of the petitioners may not be required, at this stage.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioners on the ground that the petitioners had actively participated with Sonu Masih, main accused and do not deserve the concession of anticipatory bail. She further contends that petitioner No.1 is involved in one more case, whereas petitioner No.2 is involved in five more FIRs.

5. In reply to the above submissions, learned counsel for the petitioners submits that petitioner No.2 has already been acquitted in three FIRs.

6. I have heard learned counsel for the parties and perused the record.

7. From the record, it is evident that both the petitioners were earlier arrested on 25.09.2023 and have already been ordered to be released on bail by the Competent Court. However, due to addition of the offence under Section 326 IPC, they apprehend imminent arrest. Consequently, the present bail application was filed before this Court. It is also evident from the record that the injuries, which were declared to be grievous in nature, had been attributed to Sonu Masih and not to both the petitioners.

8. Apart from above, even though criminal cases have been registered against both the petitioners, however, the said fact cannot serve as a ground for

denial of the bail in the present case as the petitioners have been able to make out a good case for grant of concession of bail in the peculiar facts and circumstances of the present case. The petitioner can never be confined in jail for an indefinite period as the Hon'ble Supreme Court in the matter of *Prabhakar Tewari Vs. State of U.P., and another 2020(1) R.C.R. (Criminal) 831* has held that the pendency of several criminal cases against the accused cannot be the basis to refuse the prayer of bail. Similar observations have been made by the Hon'ble Supreme Court in the matter of *Maulana Mohd. Amir Rashadi Vs. State of U.P., and another 2012(1) R.C.R. (Criminal) 586*.

8. Without commenting on the merits of the case, the present petition is allowed. The petitioners are granted the concession of anticipatory bail, subject to the conditions as provided under Section 438(2) of the Cr.P.C. It will be open for the Investigating Officer to call the petitioners to join investigation, if so required, by issuing a written notice in this regard and they shall abide by the conditions mentioned in Section 438(2) of the Cr.P.C.

15.01.2024
hemlata

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No