

210 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-2402-2024
Date of Decision: 25.01.2024

Arif Khan ...Petitioner
vs.
State of Haryana ...Respondent

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

Present : Mr. J.P.Sharma, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. Status report by way of an affidavit of Deputy Superintendent of Police, Kanina, District Mahendergarh has been filed on behalf of the respondent-State in Court today and the same is taken on record.
2. The petitioner has filed the present petition under Section 438 of Cr.P.C., with a prayer to grant anticipatory bail to him in case FIR No.222 dated 10.09.2023, registered under Sections 148, 149, 323, 506 of IPC (Sections 325 and 307 IPC added later on), at Police Station Sadar Kanina, District Mahindergarh.
3. Learned counsel for the petitioner contends that Irfan, co-accused of the petitioner had lodged FIR No.221 dated 09.09.2023 under Sections 148, 149, 302, 307, 323, 506 of IPC, at Police Station Sadar Kanina (Annexure P-3) against the present complainant party and the present FIR has been got registered by the complainant party as a counter blast to the said FIR. Learned counsel further contends that it has been falsely alleged that the petitioner was

armed with a danda and gave a blow on the back of the complainant. He further contends that the injuries were caused by the present accused side in self defence and the question of aggressor is yet to be decided by the trial Court during the course of the trial. He further contends that the petitioner is ready to join the investigation in the present case and his custodial interrogation may not be required in the facts and circumstances of the instant case.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner by submitting that Aas Mohammad, Aasib Khan, Anjum wife of Aasib Khan and Lal Mohammad were caused serious injuries by the complainant and his accomplices. She further submits that the opinion was sought with regard to the injuries suffered by Aas Mohammad and injuries No.1, 2 and 3 on the person of Aas Mohammad have been declared to be grievous in nature and dangerous to life. She further submits that the offences under Section 325 and 307 of IPC have been added in the present case.

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

6. From the rival submissions, it is clear that it is a case of version and cross version. The complainant party had attacked the petitioner and his co-accused and as a consequence, Feroz Khan had died and the FIR (Annexure P-3) was got registered by Irfan, co-accused against the present complainant side. Even the trial Court is yet to adjudicate the question of aggressor in the present case and no purpose will be served by sending the petitioner behind bars.

7. Without commenting any further on the merits of the case, the present petition is allowed. The petitioner is granted 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 petitioner to join investigation, if so required, by issuing a written notice in this regard and he shall abide by the conditions mentioned in Section 438(2) of the Cr.P.C.

25.01.2024
hemlata

(N.S.SHEKHAWAT)
JUDGE

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