

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

103

CRM-M-5716-2024

Date of decision: 05.02.2024

Aashif Khan

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Farukh Abdullah, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of anticipatory bail under Section 438 of the Cr.P.C. in case FIR No.239 dated 11.07.2023 under Sections 148, 149, 323, 325, 452, 506 and 307 added lateron of the IPC, registered at Police Station Punhana, District Nuh.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner is completely innocent and has been falsely implicated in the case in hand. It has been submitted that earlier the petitioner had been granted the concession of anticipatory bail vide order dated 18.07.2023 by the Trial Court, however, subsequently when offence under Section 307 of the IPC was added, he was denied the concession of anticipatory bail. Learned counsel while drawing the attention of this Court to the allegations levelled in the FIR, submits that the petitioner was not present at the time of occurrence and even assuming for the sake of arguments, though not admitted, that he did participate in the occurrence, only a simple injury had been attributed to him; later the injury had been attributed to him with an iron rod; injury which had

been inflicted by co-accused on one of the injured person Irshad was declared to dangerous to life. Learned counsel submits that when he was extended the concession of anticipatory bail he had duly cooperated with the police and the recovery of iron rod allegedly used by him in the crime in question, had also been recovered. Hence, his custodial interrogation was not required. Learned counsel has further asserted that the injury on the person of Irshad was declared dangerous to life after three days which clearly indicated that the said injury had been intentionally added by the police so as to harass the petitioner. A prayer has, therefore, been made that in the facts and circumstances, the petitioner be extended the concession of anticipatory bail.

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

4. A perusal of the allegations levelled in the FIR in question annexed as Annexures P-1, leave no manner of doubt that it was a premediated attack carried out by all the accused including the petitioner; all the accused including the petitioner were armed with lethal weapons. All the accused entered the shop of the complainant and started beating him as a result of which injured Irshad received multiple fractures on his person. Besides Irshad there were three others who too were present in the shop, and who came to the rescue of injured Irshad. They too were assaulted and received injuries on their person. Prima facie it is evident that the petitioner was a part of unlawful assembly and it was a premediated attack carried out by all the accused including the petitioner. In the facts and circumstances as enumerated hereinabove, particularly the mode and manner in which

the crime in question was given effect to, this Court does not deem it fit to extend the extraordinary concession of anticipatory bail to the petitioner.

5. Accordingly, the instant petition is hereby 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.

05.02.2024

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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