

Shamsher and another

...Petitioners

VS.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat**Present :** Mr. Akshit Aggarwal, Advocate
for the petitioners.

Mr. Rajinder Kumar Banku, Deputy Advocate General, Haryana.

N.S.Shekhawat J. (Oral)

1. Status report by way of an affidavit of Deputy Superintendent of Police, Yamuna Nagar has been filed by learned State counsel in Court today and the same is taken on record.

2. The petitioners have filed the instant petition under Section 438 Cr.PC with a prayer to grant anticipatory bail in case FIR No. 417 dated 22.08.2023, registered under Sections 148, 149, 307, 323, 427 and 120-B of IPC and Section 25 of the Arms Act, Police Station Sadar Yamuna Nagar, District Yamuna Nagar.

3. The FIR in the present case was registered on the basis of the statement made by Shahrukh Ali, who alleged that at about 06:00 PM on 22.08.2023, Irshaad got their car stopped by making a signal. When they alighted from the car, Mosim, Irshad, Aadil @ Vasid, Inam, Harun, Naushad, Riyasat Ali, Ashique Ali and Soud, who are also present at some distance on

their motorcycles and cars make “Swift” came there and attacked them. Mosin fired from the pistol at Irshad and he had suffered certain injuries. Mosin and his companions had caused injuries to his brother Amir Khan also. With these main allegations, the FIR in the present case was registered.

4. Learned counsel for the petitioners contends that the petitioners were not named in the FIR and have been named on the basis of the disclosure statement made by Irshad @ Riyasat Ali. He further contends that Tassavar and Irshad @ Riyasat Ali have already been granted the concession of regular bail by this Court, vide order dated 14.11.2023 passed in CRM-M-55258-2023 (Annexure P-3) and vide order dated 15.11.2023, passed in CRM-M-45868-2023 (Annexure P-4), respectively. Even as per the said disclosure statement, the petitioners are only stated to be present at the place of occurrence and no specific attribution has been made. He further contends that similarly placed co-accused, namely Julfan, Saud, Afsar, Enam and Harun have also been granted the concessions of anticipatory bails by this Court, vide orders Annexures P-6 to P-8.

5. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioners on the ground that the petitioners were part of the unlawful assembly, which had attacked the complainant and his companions.

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

7. The petitioners were not named in the FIR and have been named by co-accused Irshad @ Riyasat Ali, who has already been granted the concession of regular bail by this Court, vide order Annexure P-4. Apart from

that, similarly placed co-accused, namely Julfan, Saud, Afsar, Enam and Harun have also been granted the concessions of anticipatory bails by this Court, vide orders Annexures P-6 to P-8.

8. Without commenting any further 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.

04.03.2024
hemlata

(N.S.SHEKHAWAT)
JUDGE

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