

In the High Court for the States of Punjab and Haryana  
At Chandigarh

CRM-M-8360-2024 (O&M)  
Date of Decision:-16.2.2024

Sachin and another ... Petitioners

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Kunal Dawar, Advocate,  
for the petitioners.

Mr. Munish Sharma, DAG, Haryana,  
assisted by Inspector Harikrishan.

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| FIR No. | Dated     | Police Station                  | Section/s                                                                                                                            |
|---------|-----------|---------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| 91      | 22.6.2021 | Bahin, District Palwal, Haryana | 147, 149, 323, 341, 427, 506 of Indian Penal Code, wherein offences under Sections 148, 302, 120-B and 34 of IPC were added later on |

GURVINDER SINGH GILL, J. (Oral)

1. The petitioners seek grant of anticipatory bail in respect of the  
aforementioned FIR.
2. The translated gist of FIR annexed with the petition as Annexure P-1 is  
extracted hereinunder:

“I Avtar S/o Girdhar is the resident of Village Dhing, Rajasthan. I  
had come to my sister at Kondal. That on date 20.06.2021 I along

with my nephew Satyam was coming to village Kondal after withdrawing money from Hathin ATM Machine. At about 9 PM at night when we reached near tubewell of Dataram then some people parked 3- 4 motorcycles in front of us which included Saurav S/o Ashok, Prince S/o Ashok, Aditya S/o Sher Singh, Sachin S/o Pala, Sumit S/o Rajbir, Manendra S/o Sukhdev, Lalit S/o Lala who were armed with lathi, stick (danda), iron rods (sariya), iron pipe. And said that today we will teach you lesson. That I told them that I belong to Rajasthan, they beat me 2-4 sticks and then left me and in front of me abovesaid persons attacked my nephew Satyam with lathi, stick (danda), iron rod (sariya) and inflicted many injuries on both his hands, stomach, back and his head. That abovesaid persons made video while beating him in which he was made touch their feet. That while going they said that today your fate was good, you got saved. Next time we will kill you. And abovesaid persons broke our motorcycle with iron rod and lathi. After that I called to Rajbir on phone. That he came on spot then we arranged a vehicle and took Satyam to Hathin hospital from, where doctor referred him to Sabadarjung hospital Delhi to whom we took and got him admitted to Sabadarjung hospital Delhi, whose condition is critical. That abovesaid persons have inflicted grievous injuries to my nephew Satyam.”

3. Learned counsel for the petitioners submits that the petitioners have been falsely implicated in the present case and that the falsity would be evident from the fact that when 7 other co-accused were tried by the Trial Court, complainant - Avtar Singh did not support the case of prosecution at all. Learned counsel, in this regard, has drawn the attention of this Court to the statement of complainant - Avtar Singh as recorded during the proceedings of trial annexed with the petition as Annexure P-6. It has also been submitted that the petitioners during the investigation of the case at the initial stage had been found innocent.

4. Mr. Munish Sharma, DAG, Haryana, upon whom an advance copy of petition had already been served, while opposing the petition, submitted that since the petitioners are specifically named in the FIR by the complainant and that the injuries caused by the accused led to death of complainant's nephew, the complicity of the petitioners is clearly evident.
5. Learned State counsel has further been submitted that although the complainant has not fully supported the case of the prosecution, when he stepped into the witness box, but it is well settled that despite the resiling of a witness, the Trial Court can still record conviction in case there is sufficient evidence to establish complicity of the accused. It has also been submitted that the statement of complainant – Avtar Singh as recorded during the course of proceedings of the trial against co-accused, cannot extend much advantage to the petitioners as at best it could be said that the complainant had resiled qua the co-accused. It has further been submitted that, in any case, since the trial qua the co-accused is still pending, it cannot be said for certainty that the Trial Court has accepted the statement of the complainant as regards the resiled part to be correct and that apparently it is a case where the accused have either been able to win over the complainant or have forced him to make such statement. Learned State counsel has informed that petitioner No.1 – Sachin happens to be involved in one more case for offence under Sections 323/506 IPC.
6. This Court has considered the rival submissions addressed before this Court.
7. A perusal of the FIR does show that the petitioners alongwith 5 more accused are specifically named therein, who are all alleged to have collectively inflicted blows with sticks and iron rods to complainant's

nephew, who ultimately succumbed to his injuries. However, when the complainant stepped into the witness box during the proceedings of trial against 7 other co-accused, he has somehow not supported the case of the prosecution in letter and spirit in terms of his statement on the basis of which FIR was lodged. The relevant extract from his statement (Annexure P-6) is reproduced hereinunder:

“Stated that on 20.06.2021 at about 9:00p.m., I along with my Bhanja Satyam (now deceased) were returning after withdrawing the cash from the ATM machine, some unknown persons parked their motor cycle ahead of us and caused injuries to me and my Bhanja Satyam. I have seen the accused present in the Court neither they caused injuries nor they were not involved in this case.

(At this stage. Public Prosecutor requested that witness is suppressing the facts, so he may be declared hostile and he be allowed to cross-examine the witness. Heard and allowed).

**XXXXXX by Sh. Tahir Hussain, Public Prosecutor for State assisted by Sh. Ishwar Singh Sheoran, Advocate for complainant.**

I have read and understood the contents of complaint Ex.PWI/A word by word. No such complaint was given by me to the police. It is incorrect to suggest that I had mentioned in my complaint that on 20.06.2021 at about 9:00 a.m., I along with my Bhanja Satyam (now deceased) were coming back after withdrawing the cash from the ATM machine at Hathin, or that when we reached near the tubewell of Datta Ram, 3-4 motor-cyclist including Saurabh son of Ashok, Prince son of Ashok, Adatiya son of Sher Singh, Sachin son of Pala, Sumit son of Rajbir, Maninder son of Sukhdev, Lalit son of Lala, armed with Lalthi, Danda, Iron Bar, Pipe stopped us by parking their vehicle ahead of us, or that they exhorted, or that when I asked that I am belong to Rajasthan, they left me after giving 2/4 danda blows, or that in my presence they also caused injuries to Satyam (now

deceased) with Lalthi, Danda, Sarai, Pipe upon his both legs, both hands, back, head and abdomen.”

- 8. The aforesaid statement of the complainant recorded in the Court would certainly create doubt regarding the complicity of the petitioners.
- 9. Having regard to the facts and circumstances of the case and also the fact that the petitioners during the investigation of the case at the initial stage had been found innocent, the instant petition merits acceptance and is hereby accepted. It is ordered that the petitioners, in the event of their arrest, be released on bail subject to their furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioners shall join the investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.
- 10. It is, however, made clear that the aforesaid observations have been recorded only for the purpose of disposal of this petition and shall not be treated to be a final expression as regards the guilt or innocence of the petitioners.

16.2.2024  
pankaj

( Gurvinder Singh Gill )  
Judge

|                           |          |
|---------------------------|----------|
| Whether reasoned/speaking | Yes / No |
| Whether reportable        | Yes / No |