

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(I) CRM-M-12100-2024 (O&M)

Faruk Malik*Petitioner*
Versus
State of U.T. Chandigarh*Respondent*

(II) CRM-M-12162-2024 (O&M)

Faruk Malik*Petitioner*
Versus
State of U.T. Chandigarh & others*Respondents*

Date of Decision: 22.04.2024

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Puneet Sharma, Advocate, for the petitioner/s.

Mr. Manish Bansal, PP, UT Chandigarh with
Mr. Ankush Singla, Advocate, assisted by SI Sukhdev Singh.

Mr. Karan Kaushal and Mr. Vishva Bahl, Advocates,
for the complainant.

GURVINDER SINGH GILL, J.

1. This order shall dispose of the following two petitions filed on behalf of
Faruk Malik:

- (i) CRM-M-12100-2024 : Seeking grant of anticipatory bail in case FIR No.11 dated 10.02.2024 registered at Police Station East, Sector-26, Chandigarh; &
- (ii) CRM-M-12162-2024 : Seeking issuance of directions for registration of a cross-case arising out of FIR No.11 dated 10.02.2024 registered at Police Station East, Sector-26, Chandigarh

2. The FIR in question was lodged at the instance of Varinder Rana @ Ankur, wherein it is stated that he is a Papaya seller operating from rear side of Shop Nos.1 & 16, Grain Market, Sector-26, Chandigarh. It is stated that one Faruk Malik, who is also into the business of Papaya, works from the rear side of Shop Nos.2 & 12, Grain Market, Sector-26, Chandigarh and that he (Faruk Malik) considers himself as a self-styled goon and often used to threaten him (complainant) in connection with parking of truck on the rear side of shop. It is alleged that on 09.02.2024, Faruk Malik accompanied by his associates came outside complainant's shop and told him that in future no truck shall be parked there and that in case the truck of the complainant is found to be parked there, then he will have to face dire consequences. It is alleged that on 10.02.2024 at about 12:00–12:30 PM, Faruk Malik and Sajid @ Sahid came on the rear side of Shop No.1, where the complainant was present and that Faruk Malik, while pointing towards Ankur (complainant), told his companion that he considers himself as a big leader and that he should be killed right away and upon which Sajid @ Sahid took out a pistol and pointed the same at the head of the complainant, but the same did not fire despite pressing of trigger. The complainant pushed Sajid and ran, but Sajid caught him. Faruk Malik was carrying a sword like weapon. Upon hearing alarm raised by the complainant, some labourers gathered there and surrounded Sajid. The complainant's friend Kamal, who is running a small eatery (*dhaba*), snatched the pistol from Sajid's hand. The crowd gave beatings to Sajid. Faruk Malik, upon seeing Sajid being beaten up, ran away from the spot and while running he exhorted Sajid repeatedly to fire from his weapon. Sajid also managed to run away from the spot in injured condition.

It is alleged that these persons had made a murderous assault upon him (complainant) after conniving with each other. The complainant suspected that some more persons must be associated with them in the said conspiracy.

It is also alleged that Faruk Malik while running away from the spot also inflicted injury to one Wasim, labourer and also hit the complainant on his head with pistol's butt.

3. Learned counsel for the petitioner submitted that he has falsely been implicated in the present case and that as a matter of fact, it is a case where the complainant party had inflicted a large number of injuries to co-accused Sajid. Learned counsel in this regard has referred to the medical record pertaining to Sajid annexed as Annexure P-2/A and also his photographs showing that a large number of stitches were applied on the skull of Sajid.
4. Opposing the petitions, learned counsel representing the UT Chandigarh assisted by learned counsel for the complainant submitted that having regard to serious nature of allegations and the murderous assault made by the accused, which virtually stands substantiated from the fact that weapon used by the accused, which was snatched by complainant's friend, namely, Kamal at the spot, has been handed over to the police, the complicity of the petitioner is clearly evident. Learned counsel representing the UT Chandigarh submitted that the injuries, if any, found on the person of co-accused Sajid were caused in self-defence and the petitioner cannot get any advantage from the same.
5. This Court has considered rival submissions.

6. It is a case where specific and categoric allegations have been leveled against the petitioner, who is specifically named in the FIR. The pistol in question is said to be a licensed pistol of petitioner - Faruk Malik and no justifiable explanation regarding the recovery of the same from the spot is forthcoming. Though learned counsel for the petitioner did try to explain that the same had been taken out by the complainant from the car of the petitioner, but such explanation does not seem plausible at this stage. Though the weapon recovered is stated to be a licensed weapon, but the license is valid only in the State of Punjab and not for UT Chandigarh. Having regard to the serious nature of crime, this Court does not find that any special case for grant of anticipatory bail to the petitioner is made out.
7. As far as other petition filed on behalf of the petitioner seeking issuance of directions is concerned, this Court does find that it is a case where co-accused Sajid had sustained a large incised wound on his skull apart from other injuries. A perusal of the photograph reveals that almost two dozen stitches had to be applied on his skull. While on one hand, it could be said that he may have been caused the injuries by the complainant party in self-defence, but at the same time it could also be a case of exceeding the self-defence or a case where the complainant party could ultimately be found to be aggressor. Under these circumstances, the cross-version, if any, put forth on behalf of the accused also needs to be thoroughly examined. Respondent No.3 – Senior Superintendent of Police, UT Chandigarh is directed to examine the case qua the injuries sustained by co-accused Sajid.

8. Consequently, while CRM-M-12100-2024 seeking grant of anticipatory bail is dismissed, CRM-M-12162-2024 seeking issuance of directions is accepted in the terms indicated above in preceding paragraph.
9. A photocopy of this order be placed on the connected file.

22.04.2024
Vimal

(GURVINDER SINGH GILL)
JUDGE

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