

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13588-2024 (O&M)
Date of Decision: 10.04.2024

Kamal*Petitioner*

Versus

State of Haryana*Respondent*

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Vinod Ghai, Senior Advocate, with
Mr. Abhimanyu Singh, Mr. Arnav Ghai and
Mr. Shivam Sharma, Advocates, for the petitioner.

Mr. Ramender Singh Chauhan, AAG, Haryana.

Mr. Manish Soni, Advocate, for the complainant.

FIR No.	Dated	Police Station	Section/s
436	28.10.2023	Khedki Daula, District Gurugram	147, 148, 149, 323, 285, 307, 427, 506, 212 IPC and 25(1B)(a), 27.2 of the Arms Act (Sections 427, 506, 212 IPC and Section 27.2 of the Arms Act added later on)

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of anticipatory bail in respect of aforementioned FIR.
2. It is the case of the prosecution that on a complaint filed by Jatin, a formal FIR was registered in the present case. The complainant alleged that he is resident of village Shikohpur, District Gurugram. On 25.10.2023, his uncle Joginder and Parasram were beaten up by the residents of village, namely,

Hemant and Ankit and their friends. They came to know that Hemant, Ankit and Sumit and 2-3 other boys along with them were sitting at Shishpal's office. In order to discuss the matter with them, he alongwith his brother Chirag @ Chintu, Lalit, Kapil and Yoginder reached Shishpal's office. When they were having the talks, then Sumit, 2-3 boys sitting there, got angry and started abusing them. When they protested, Ankit took out his pistol and pointed towards them and asked them to go away from there else he would shoot them. When they were returning after coming out of their office, then Kamal son of Narender came in Brezzaa Car No.HR26ES-6016 and as soon as he got out of the car, he started abusing them as to how they dared to come to their office. Then a car make Scorpio color white came at a high speed and stopped, from which Shishpal son of Jai Bhagwan, Sanjay son of Dharmender and Rohit son of Sube Singh alighted armed with sticks and pistol and started hurling abuses. Ankit, Hemant and Sumit and their 2-3 other friends who were sitting in his office came out and as soon as they came out, they fired 2-3 shots in the air and started beating them with the sticks in their hands. Then Shishpal fired a direct shot from the pistol in his hand which hit Lalit. Sumit and Ankit hit them directly with the pistols in their hands, whose bullet hit Chirag @ Chintu's leg. Kamal fired directly with the pistol he was holding in his hand, but he (complainant) had a narrow escape. Shishpal, Rohit, Kamal, Hemant, Ankit, Sanjay, Sumit and their other friends together, beat them with sticks and fired shots at them with an intention of killing them. They fled from the spot in their respective vehicles. Lalit and Chirag were rushed to Aarvy Hospital, Sector-90 for treatment. Thereafter, they got admitted them to Fortis Hospital, Gurugram for better treatment. On this complaint, FIR under Sections 147, 148, 149,

323, 285, 307, 427, 506, 212 of IPC and 25(1B) (a) of Arms Act was registered.

3. Learned senior counsel appearing on behalf of the petitioner submitted that he has falsely been implicated in the present case and that it is a case where the petitioner in the FIR is alleged to have fired from a pistol, but now upon investigation, it is alleged that he had been carrying a stick. It has been submitted that even the witnesses examined by the investigating agency during the course of investigation have not supported the case of prosecution regarding the use of fire arm by the petitioner.
4. On the other hand, learned State counsel assisted by learned counsel representing the complainant submitted that not only the petitioner is named specifically in the FIR, but all the witnesses whose statements have been recorded under Section 161 Cr.P.C. have categorically named him. It has been submitted that having regard to large number of accused in the present case, the complainant might have committed some error with regard to description of persons, who were carrying sticks or the person who was carrying some fire arm and as such, at this stage the same cannot be of much consequence particularly when the presence of the petitioner is also fully corroborated from the CCTV footages.
5. The rival submissions addressed before this Court have been duly considered. Even the CCTV footages with regard to scene of occurrence, as have been shown by learned counsel appearing on behalf of the petitioner with the help of tablet, have been watched.
6. On watching the CCTV footages, it transpires that the same are from three different cameras installed at the premises of the accused and pertain to 28.10.2023. All the three footages are with respect to the time period 10:20

pm to 10:33 pm. Upon watching all the three footages, this Court finds that it is indeed the complainant party which had come to the office of the accused at about 10:20 p.m. The complainant party is shown to have entered into the office of accused Shishpal at about 10:24 p.m. and they are seen to be throwing some objects at the accused and they remained there for a few seconds. On the other hand, one of the accused is, however, shown to be brandishing a pistol as well. After the brief manhandling, the members of complainant party went out of the office into the street and kept standing there for about 6-7 minutes. At about 10:25 p.m. one of the cars of the accused arrived. At that time no fight seems to have taken place. It is when another car of the accused arrived at about 10:31 p.m. that the said accused after exchange of few words immediately entered the office of accused Shishpal. At about 10:32 p.m. one of the accused is seen taking out weapons in the shape of sticks etc. from a box bed and they are seen in one of the three footages, rushing out in the street. The footage, thereafter, has not been provided. The aforesaid sequence does show that while it is the complainant party which had entered into the office of the accused in the first instance, but the accused were able to send back the complainant party from their office. However, subsequently, when some more accused came in two cars that all the accused collected weapons from their office. The sequence suggests that it was thereafter that the injuries were caused to the complainant party while they were in the street.

7. Para 10 of the status report dated 03.04.2024, wherein there is reference to the role of the present petitioner and the CCTV footages, is reproduced hereinunder:

“10. That the role of the petitioner Kamal in the present case is that he had given beatings to the complainant party with *danda*. The video of the CCTV

footage obtained during the course of investigation is of 19 minutes 56 seconds duration. At 13:09 minutes in the video, the petitioner Kamal (wearing maroon/red half sleeve T-shirt) can be seen alighting from Brezza vehicle having black colour roof. Further, at 14:58 minutes in the video, the petitioner can be seen holding a *danda*. At 15:10, the petitioner can be seen hitting the complainant with the *danda*. The petitioner has been named by the complainant in the present FIR. The pen drive marka Sandisk containing the CCTV footage is attached herewith as Annexure R-3. It is pertinent to mention here that the said CCTV footage can be played only on “VLC Media Player”.”

8. Though initially in the FIR, the petitioner is alleged to have fired from a pistol, but as per the CCTV footages collected during the course of investigation, the petitioner is seen alighting from Brezza vehicle having black colour roof. He is seen carrying a stick and is also seen hitting the complainant with stick. The submission on behalf of the petitioner that he had been carrying a stick only cannot be of much consequence at this stage particularly when his presence is fully corroborated from the CCTV footages and it is evident that he was part of unlawful assembly and had actively participated in the commission of crime. The CCTV footage is in tune with the allegations leveled in the FIR. Having regard to the role of the petitioner and the fact that he is clearly seen in the CCTV footages, this Court does not find that any special case is made out for grant of anticipatory bail to petitioner.
9. The petition is found to be sans merit and is hereby dismissed.

10.04.2024

Vimal

**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No