



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M No. 17938 of 2024 (O&M)
Date of Decision: 15.05.2024

Deepak Kumar

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Chanderhas Yadav, Advocate
for the petitioner.

Mr. Rajiv Sidhu, Deputy Advocate General, Haryana
for respondent No. 1.

Mr. Sarvesh Malik, Advocate
for respondent No. 2.

HARKESH MANUJA, J. (ORAL)

The petitioner, by way of present petition filed under Section 438 Cr.P.C., prays for grant of pre-arrest bail in case bearing FIR No. 0065 dated 26.03.2024, under Sections 148, 149, 323, 324, 307, 427 & 506 of IPC, 1860 and Section 25 of Arms Act, 1959, registered at Police Station Beri, District Jhajjar, wherein he has been implicated alongwith few others for having given multiple injuries to the complainant-victim (respondent No.2).

[2] Status report by way of affidavit dated 13.05.2024 of Sh. Pardeep Kumar, HPS, Assistant Commissioner of Police, Beri, District Jhajjar, filed on behalf of the respondent-State, is taken on record. Copy thereof has been supplied to the opposite side.

[3] Learned counsel for the petitioner submits that even if the allegations levelled in the FIR are taken at its face value, not even a single injury has been attributed to the petitioner, as the fire arm injury was given by Pawan @ Kala, whereas the knife blow was allegedly given by one Monti. He further submits that in the present case, the prosecution has been continuously improving its case, as in the FIR, it was nowhere mentioned that any injury was inflicted by the petitioner. However, in the status report dated 13.05.2024 filed on behalf of the respondent-State, kicks and blows have been attributed to the petitioner. He also points out that the petitioner is not having criminal antecedent and is young boy of 23 years of age and thus, prays for grant of anticipatory bail.

[4] On the other hand, learned State Counsel, assisted by Mr. Sarvesh Malik, learned counsel representing respondent No. 2, vehemently opposes the prayer made on behalf of the petitioner, while referring to the injuries inflicted upon the person of victim-complainant. Learned State Counsel submits that as per MLR, there are seven injuries and all are sharp and incised wound.

[5] After hearing learned counsel for the parties and gone through the paper-book, I am unable to find substance in the submissions made on behalf of the petitioner.

[6] A perusal of the MLR as well as the photographs of the injured victim / complainant, attached alongwith the status report dated 13.05.2024, shows that the complainant was brutally attacked and even got his car vandalized. The injuries as reflected from the MLR of the complainant-victim, which was recorded on 25.03.2024 are extracted hereunder:-

Sr. No.	Injuries	Marked	Injury Number
1	Two Horizontal Incised Wound of Size 8 X 0.5 CM and 6 X 0.2 CM present over lateral aspect of right lumbar region of abdomen Adv. Surgery Opinion	No	1
2	Horizontal Incised Wound of Size 10 X 0.3 CM present over 2 CM above umblicus in umbilical region of abdomen Adv. Surgery Opinion	No	2
3	Horizontal Incised Wound of Size 15 X 1 CM present on neck extending from throid gland and tailing toward right side of Nape of Neck Adv. ENT/ Surgery Opinion	No	3
4	Lacerated wound of size 3 X 0.5 CM present over right side of nose Adv. ENT Opinion	No	4
5	Oblique Incised wound of size 4 X 0.5 CM present over MID of Neck Adv. ENT Opinion	No	5
6	Incised wound of size 3 X 0.5 CM present over medial aspect of left thumb. Adv. Ortho Opinion	No	6
7	Lacerated wound of size 0.5 X 0.3 CM present over TIP of Middle Finger of Left Hand	No	7
8	Note. In life saving condition of patient further injuries may be added later on during course of treatment by the treating doctor	No	8

[7] Considering the fact that as per the allegations levelled in the FIR, the petitioner throughout remained part of the perpetrators besides the dimensions and extent of the injuries (total seven), which all are sharp and incised wound, while taking into account the gravity and seriousness of the offence and its impact on the society and also for ensuring the free and fair

investigation, the petitioner does not deserve the concession of pre-arrest bail.

[8] This is also settled law as laid down in case of “*Srikant Upadhyay & others Versus State of Bihar and another*” 2024 INSC 202 that power to grant anticipatory bail under Section 438, Cr.P.C is an exceptional power and should be exercised only in exceptional cases and not as a matter of course. Relevant para-8 of the said judgment is reproduced hereunder:-

“ It is thus obvious from the catena of decisions dealing with bail that even while clarifying that arrest should be the last option and it should be restricted to cases where arrest is imperative in the facts and circumstances of a case, the consistent view is that the grant of anticipatory bail shall be restricted to exceptional circumstances. In other words, the position is that the power to grant anticipatory bail under Section 438, Cr.P.C. is an exceptional power and should be exercised only in exceptional cases and not as a matter of course. Its object is to ensure that a person should not be harassed or humiliated in order to satisfy the grudge or personal vendetta of the complainant. (See the decision of this Court in *HDFC Bank Ltd. v. J.J.Mannan & Anr.4*). ”

[9] Accordingly, finding no merit in the present petition, the same is hereby **dismissed**.

[10] Pending miscellaneous application(s), if any, shall also stand disposed off.

May 15, 2024
'dk kamra'

(HARKESH MANUJA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No