

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-29926-2024
Reserved on: 14.08.2024
Pronounced on: 30.08.2024

Kulwinder Sharma and another ...Petitioners

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Shifa Arora, Advocate
for the petitioners.

Mr. Jasjit Singh, D.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
50	05.05.2024	Dirba, District Sangrur	452, 323, 341, 506, 34 IPC

1. The petitioners apprehending arrest in the FIR captioned above have come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.
2. In paragraph 17 of the bail petition, the accused declares that they have no criminal antecedents.
3. Facts of the case are being extracted from status report dated 13.08.2024 filed by concerned DySP which reads as follows:-

“2. That pursuant to the said order, it is submitted that the brief facts of the case/FIR No. 50 dated 05.05.2024 u/s 452,323,341,506,34 IPC P.S., Dirba are that the present FIR was registered against Kaur Chand Sharma son of Kaka Ram, Devinder Sharma son of Kaur Chand and Kulwinder Sharma son of Kaur Chand residents of village Gujran, P.S. Dirba on the basis of statement of Amarjeet Ram son of Sohna Ram resident of Grewal Patti, Gujran with the allegation that, on 04.05.2024 at about 12:30 PM, the complainant and his family members was storing wheat straw in the godown (Sabat) of their house and when his grandson Ashok Kumar went inside the four-walled compound (bagal) for drinking water after unloading the wheat straw from the trolley, then Kulwinder Sharma, Devinder Sharma and Kaur Chand Sharma armed with sticks, entered inside the four-walled compound (bagal) of the complainant and they started beating Ashok Kumar (grandson of complainant). When the complainant came forward to rescue his grandson, then Kaur Chand Sharma inflicted injury with stick on the left shoulder of the complainant. Then Devinder Sharma inflicted injury with

stick on the left elbow of the complainant and when the complainant raised alarm, then Kulwinder Sharma also inflicted injury just below the elbow of the complainant. Thereafter, the complainant fell unconscious and even after that they inflicted injuries to the complainant and his grandson Ashok Ram. The complainant and his grandson Ashok Kumar were rescued by the persons, who were unloading wheat straw at that place and thereafter, the complainant got admitted at Civil Hospital, Sangrur. On the basis of statement of Amarjeet Ram, present FIR was registered against above said persons."

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State opposes bail.

6. Counsel for the petitioners submits that both the petitioners are students. Petitioner No.1 is doing computer course and petitioner No.2 is in ITI Electricity and they are first offenders and injuries were not inflicted on any vital part.

7. State counsel has opposed the bail and has referred to following portions of status report which reads as follows:-

"6. ROLE OF THE PETITIONERS

The present was registered against accused/petitioners Kulwinder Sharma, Devinder Sharma and their co-accused Kaur Chand on the basis of statement of Amarjeet Ram. During investigation it was duly substantiated that both the accused/petitioner and their co-accused Kaur Chand in connivance with each other have entered inside the four-walled compound (bagal) of the complainant and start beatings to Ashok Ram (grandson of complainant), when the complainant tried to save his grandson, then all the three accused including petitioners, inflicted 3 injuries to the complainant. Out of 3 injuries, injury no. 1 inflicted by Kaur Chand, was declared as grievous in nature, on the basis of which, offence u/s 325 IPC was added. Injuries no. 2 and 3 are attributed to both the petitioners/accused. So, a specific role is found to be attributed to the petitioners in the commission of present offence."

8. An analysis of the arguments would lead to the outcome that although there is sufficient evidence pointing towards petitioner's involvement but considering the nature of weapon used and the fact that petitioners are students and have no criminal antecedents, this Court wants to afford them an opportunity to correct course and live like a good citizen.

9. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioners makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

10. Given above, provided the petitioners are not required in any other case, the petitioners shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaka Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

11. While furnishing a personal bond, the petitioners shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

12. The petitioners are directed to join the investigation within seven days and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act. The petitioners shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioners shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

13. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

14. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

15. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.