

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-31270-2024 (O&M)

Date of Decision: 04.07.2024

Iliyas

... Petitioner

VS.

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Arjun Atri, Advocate for the petitioner

Mr. SS Pannu, DAG Haryana

Sandeep Moudgil, J.

Relief

(1). This petition under Sections 438 CrPC has been filed by the petitioner seeking anticipatory bail in case FIR No.382 dated 24.10.2023 under Sections 148/149/323/324/452/506 IPC (Section 326 IPC added later on) registered at Police Station Ferozepur Jhirka, District Nuh.

Facts

(2). Facts as culminating in the FIR is reproduced as under:-

“...Sir, it is a request to your service that I am Kayam son of Hajar, resident of Kalakheda tehsil and police station Firozpur Jhirka district Nuh. My brother Anees and the other party's Sahil son of Isa both drive taxis in Gurgaon. On 15.10.2023, both of them had a minor argument with each other in Gurgaon and Sahil made a call to his family regarding this, after making the call, all the above mentioned people of Sahil's family, in connivance with each other, came with sticks in their hands, they entered our house with after entering a stick or a chatiya and our house, they started beating me, my father Hajar or my brother Aamir, which Ilyas son of Malha, holding the Axe (chatiya) in his hand, hit my father on his head or eyebrow and Saddam son of

Isa hit my father on the head with the stick in his hand or Aleem son of Isa hit me on the head with the stick in his hand or Naseer son of Ilyas hit on the head of Aamir with the stick in his hand. Hearing the noise of the fight, Jaan Mohammad son of Himmat, Mustaq son of Ajmat and Ajmat son of Himmat came running to the spot and started trying to rescue us. At that time, Aakil son of Akhtar hit the head of Jaan Mohammad son of Himmat with the sword in his hand and the rest of the accused kicked and punched us. Those who were saved us from the accused with great difficulty, accused were saying while leaving that you were saved today and they will kill them if they get another chance. for our After that, we Due to severe went to the government hospital Firozpur Jhirka treatment. head injury, the doctor referred my father Hajar to the higher center Nallhad, which we went to the government hospital for the treatment of our father. Took to Delhi Ram Manohar is Lohia hospital, my father undergoing treatment there. Which I have come today Therefore, for it giving the application. is requested that legal action should be taken against the above mentioned accused persons. With thanks dated 16.10.2023 SD-Kayam...”

Submission by the petitioner

(3). Learned counsel for the petitioner contends that there is no iota of truth in the assertion made by the complainant as can be seen from the fact that there is a delay of 9 days in bringing the first information before the police. He further averred that the petitioner is not the aggressor party but was only intervening and tried to avoid any altercation between the two party and neither he used any weapon and there is no attribution against the petitioner of having caused any sort of injury to the complainant party.

State's contention

(4). Learned State counsel opposed the prayer made by the counsel for the petitioner on the ground that it has been proved in the MLR that the grievous injuries have been inflicted upon the victim and an axe blow has been

attributed to the petitioner and as such, the custodial interrogation of the petitioner is needed.

Analysis

(5). In the MLR of injured Ilyas, it has come on record that the various injuries were inflicted in the tussle between the both the aggressive parties over family issues which was stretched to such an extent leaving members of both the parties injured. Notwithstanding that, it also cannot be denied that the petitioner has been attributed injury upon the Ilyas with a sharp edged weapon which has been declared as grievous in nature in the medico-legal report and as such, Section 326 IPC has been added against the petitioner.

(6). There is no ground for this Court to grant the concession of anticipatory bail to the petitioner as that would hinder the process of law and would also obstruct in bringing the real culprit to book.

(7). Dismissed.

04.07.2024
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No