

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32163-2024
Reserved on: 05.08.2024
Pronounced on: 30.08.2024

Sanjay and another ...Petitioners

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Baljeet Beniwal, Advocate
for the petitioners.

Mr. Rajat Gautam, Addl. A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
327	15.11.2021	Sadar Palwal, District Palwal	452/307/379-B/302/34 IPC

1. The petitioners apprehending arrest in the FIR captioned above after the trial court summoned the petitioners after allowing the complainant's application under section 319 CrPC, 1973, seeking anticipatory bail, with further relief that they be released on bail on their appearance before the trial Court.
2. In paragraph **11** of the bail petition, the accused declares that he has no criminal antecedents.
3. Facts of the case are being taken from para 2 of the status report, which reads as follows:

"2. That brief facts of the case are that FIR no. 327 dated 15.11.2021, P.S Sadar, Palwal was originally registered under sections 34, 3798, 452 of IPC against Sanjay (petitioner no.1) son of Vijay, Netrapal son of Kishan Lal, Rohtash (petitioner no.2) son of Ramkala and Sonu (present petitioner) son of Kishan Lal upon complaint of Jogender son of Bodalli with regard to the incident dated 13.11.2021 at about 2:30 P.M in which Mahesh was caused injuries and consequently he had died. A true translated English version of his complaint is appended below for kind perusal of the Hon'ble Court:-

"I, Joginder Singh son of Bodalli am a resident of village Deeghot,

Tehsil Hodal, District Palwal and I am a Jaat by caste. On 13.11.2021 at about 2:30 P.M, I happened to pass in front of house of my maternal aunt (MAUSI) namely Dayawati and I then overheard an alarming noise as "BACHAO BACHAO". Therefore, I went in after opening the door and noticed that Sanjay son of Vijay, Netrapal@Bhambhal son of Kishan Lal, Rohtash son of Ram Kala and Sonu son of Kishan Lal, who are my co- villagers were beating Mahesh Kumar son of my maternal aunt (MAUSI) by iron rods, axes and cudgels. Sanjay was holding a rod, Neterpal was holding an iron rod, Rohtash was holding an axe and Sonu was holding a cudgel (DANDA). All of accused were causing blows on his face and head by their respective weapons. After getting out, I raised an alarm, on hearing my hue and cry, then my maternal aunt (MAUSI) Dayawati had arrived there. My first cousin Mahesh was lying unconscious in a blooded condition on the bed. I and my maternal aunt (MAUSI) tried to nab four of accused, however, the accused had fled from there. On hearing the commotion, many persons had arrived there from the neighborhood. A cycle and hand stick of any of the accused had left on the spot. On entering into house, my maternal aunt (MAUSI) noticed that lock of Almirah was opened, which contained a cash of Rs. 2,10,000/- (Rs. two lac ten thousand), which was out of sale proceed of the plot, which the accused had taken away. Persons from neighborhood informed the Police and after around an hour, the police had reached at the spot. I and Govind son of Arjun shifted my first cousin Mahesh to Govt. Hospital, Palwal alongwith Police, from where he was referred to Apex Hospital, Palwal and my another first cousin Kripa Ram had also arrived there, who had further shifted Mahesh to Sarvodya Hospital, Faridabad from Apex Hospital. After few hours, Mahesh was further referred to Trauma Centre Delhi, where he is still under treatment. After the occurrence, we have remained busy with treatment of Mahesh; therefore, we have come today to report about the matter. Then a request to take action against the accused persons was made".

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's counsel opposes bail and refers to the status report.

6. Although there is sufficient prima facie evidence connecting the petitioners with the alleged offence, but at this stage, this Court is dealing with the bail and nothing else.

7. The State had absolved the petitioner during the investigation, and the prosecution agencies did not consider it appropriate to prosecute the petitioner. Thus, a view favoring the petitioner exists, and on this ground alone, the petitioner is entitled to bail. Even a prima facie perusal of Paragraph 4 of the bail petition needs consideration for bail.

8. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

9. 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 concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

10. 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)	

11. This order is subject to the petitioner's complying with the following terms.

12. The petitioners shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioners shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

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 Petitioners 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.