



CRM-M-32143-2024

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**102 IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH****CRM-M-32143-2024****Date of decision: 9<sup>th</sup> July, 2024**

‘S’ (Child-in-conflict with law) through his mother Sohani

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

**CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. Lalit Kumar Narang, Advocate for the petitioner.  
Mr. Arjun Lakhanpal, Addl. A.G. Haryana.  
Mr. Rohit Kataria, Advocate for the complainant.

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**MANISHA BATRA, J (ORAL):-**

The instant petition under Section 438 of Cr.P.C. has been filed by the petitioner who is a child-in-conflict with law (for short ‘CCL’) (name withheld) seeking anticipatory bail in case arising out of FIR No. 90 dated 16.05.2024 initially registered under Sections 323, 34 and 506 of IPC (Sections 325 and 326 of IPC added later on) at Police Station Lakhna Majra, District Rohtak, Haryana.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of complaint lodged by the complainant Kimti alleging therein that on 14.05.2024, she alongwith her husband was present in her agricultural land, for demarcation of the same at around 4:00 PM, when the petitioner who is



the nephew of her husband, the co-accused Satish and Suman parents of the petitioner and Santosh-grandmother of the petitioner and mother-in-law of the complainant reached there armed with weapons and opened an attack upon her. She raised rescue alarm and got saved with the intervention of her husband, the village Patwari, the numberdar and other persons who were present at the spot as they had come for demarcation of her land. While leaving, the assailants extended threats to kill her husband and herself. She was rushed to hospital as she had sustained injuries. After registration of FIR, investigation proceedings were initiated. During the course of investigation, offences under Sections 325 and 326 of IPC were added. The petitioner had moved an application for grant of pre-arrest bail which has been dismissed by the Court of learned Additional Sessions Judge, Rohtak vide order dated 27.06.2024.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he was a minor aged about fifteen years and six months as on the date of occurrence and is entitled to be extended benefit of pre-arrest bail as a matter of right. No injuries with sharp edge weapon has been sustained by the petitioner and Section 326 of IPC has been wrongly added. Recoveries of weapons already stand effected. The prayer of the petitioner for grant of pre-arrest bail is maintainable. He had joined the investigation and co-operated with the investigating officer but still his application for grant of pre-arrest bail has been dismissed by the learned Additional Sessions Judge, Rohtak. His detention in custody is not required. Therefore, it is argued that he deserves to be extended benefit of



pre-arrest bail. To fortify his arguments as to maintainability of the petition, he has placed reliance upon the authorities cited by the judgment of Division Bench of this Court in case bearing No. '**CRM-M-17856-2020**' decided on 28.06.2024 titled as '**Jatin Vs. State of Punjab**', judgment given by Division Bench of Allahabad High Court in case titled as '**Mohammad Zaid Vs. State of Uttar Pradesh and another, 2023(248) AIC 923**' and also judgment passed by the Co-ordinate Bench of this Court in case titled as '**Krishan Kumar minor through his mother Vs. State of Haryana, 2020(3) RCR (Criminal) 180**'.

4. Notice of motion.

5. Mr. Arjun Lakhanpal, Addl. A.G. Haryana who has been served with advance notice put in appearance on behalf of the respondent-State. At this stage, Mr. Rohit Katania, Advocate has put in appearance on behalf of the complainant and has filed his *Vakalatnama*.

6. Learned State counsel assisted by learned counsel for the complainant has vehemently argued that there are specific and serious allegations against the petitioner who in furtherance of his common intention with the co-accused who are his parents and grandmother respectively had assaulted the victim and had caused grievous injuries to her. His custodial interrogation is required. The circumstances of the case do not warrant grant of benefit of pre-arrest bail to him. Even otherwise, the petition for pre-arrest bail is not maintainable in case of a minor. Therefore, it is argued that the petition does not deserve to be allowed.

7. I have heard learned counsel for the parties at considerable



length and have gone through the record carefully.

8. The petitioner is admittedly a minor. As per the allegations, he along with the co-accused had caused injuries to the complainant who is his aunt and three of these injuries have been opined to be grievous in nature. So far as the question of maintainability of the petition for grant of pre-arrest bail to the reason that the petitioner being a juvenile is concerned, this question has been answered by a Division Bench of this Court in ***Jatin's case (supra)***, as per which petition for grant of pre-arrest bail in case of a juvenile is very much maintainable. Similarly in ***Mohammad Zaid's case (supra)*** and ***Krishan Kumar's case (supra)***, it was observed that a juvenile could file a petition under Section 438 of Cr.P.C. The co-accused had been arrested and all three of them have been extended benefit of regular bail. The weapons as well as the vehicle used at the commission of subject offence, have been recovered from them. As such, in my considered opinion, the custodial interrogation of the petitioner is not required and the petition deserves to be allowed. Accordingly, the same is allowed and the petitioner is ordered to be admitted to bail, subject to his joining the investigation within ten days and thereafter, as and when required by the investigating officer and surety bonds through his natural guardian as well as personal bonds to the satisfaction of the Investigating Officer and further subject to the condition that he shall appear before the Juvenile Justice Board/ Court on each and every date of hearing, shall not extend any threat or intimidation to the prosecution witnesses and also subject to his complying with usual terms and conditions under Section 438(2) of Cr.P.C. In case, he violates any term



and condition on which the benefit of pre-arrest bail has been granted to him, the prosecution would be entitled to seek cancellation of bail.

9. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

[MANISHA BATRA]  
JUDGE

9<sup>th</sup> July, 2024  
Parveen Sharma

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|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable         | : | Yes / No |