

CRM-M-32533-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32533-2024
Reserved on: 06.08.2024
Pronounced on: 30.08.2024

Shishpal Sharma ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rakesh Nehra, Sr. Advocate with
Mr. Pankaj Kaushik, Advocate and
Mr. Ankit Yadav, Advocate
for the petitioner(s).

Mr. Rajat Gautam, Addl. AG, Haryana.

Mr. Randeep Singh, Advocate
Mr. Divyan Singh, Advocate and
Mr. Vikram Singh, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
140	16.05.2024	Nigdhu, District Karnal	148, 149, 323, 452,307, 302 & 506 IPC

1. The petitioner apprehending arrest in the FIR captioned above had come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.
2. In paragraph 14 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“2. That at the very outset, it is submitted that on 16.05.2024 at about 12:15 A.M., SI Satyawar along with H.C. Gulzar Singh had to rush CHC Nigdhu on receiving telephonic information with regard to the admission of Surinder Kumar son of Rameshwar Dass, resident of village KarsaDod in the hospital. Consequently, he moved an application before the concerned doctor seeking opinion with regard to fitness of injured Surinder Kumar, however, he was declared unfit. After that, SI Satyawar Singh found present Krishan son of Parsa Ram, resident of village KarsaDod at the main gate of CHC, who got recorded his statement to the effect that there is a Kansa Chopal in front of his house in the village. Shishpal Sharma's nephew (Bhanja) Gaurav had purchased some land

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near to his house. Some chairs of Panchayat were laid on said land, on which some villagers also used to smoke Hooka and intoxicants themselves. It is alleged that around 11:15 PM on 15.05.2024, the complainant along with his brother Rameshwar was standing in front of their house, where Parmod @ Lucky son of Shishpal, Rahul son of Subhash, Shishpal son of Hari Chand (petitioner), Gaurav nephew of Shishpal, wife of Shishpal, grandson of Hari Ram, grandson of Budda, Aman son of Chhatarpal, Kaki son of Hassan Pal, Ashok son of Pala Ram, Ankus son of Multan and 4-5 other persons were sitting on aforementioned chairs, taking liquor and making ruckus. Consequently, RameshwarDass snubbed them on this account and aforementioned all the persons got swords, Gandasi, Dandas from their houses. In the meanwhile, Surrender son of Rameshwar also arrived there. All the aforementioned accused persons while acting in concern assaulted Surinder Kumar with swords, lathis and dandas with the intention of causing his death. Surinder Kumar was assaulted with a sword on his stomach and on several places on his back. All the accused persons in fact assaulted Surinder with their respective weapons. Resultantly, Surinder Kumar fell unconscious and the complainant was also present at the spot and raised the alarm to save Surinder Kumar. In the meanwhile, some other persons also arrived at the spot and therefore, all the aforementioned assailants fled along with their respective weapons by giving an ultimatum that they have saved themselves on that day, otherwise, they would have been killed. After that complainant along with Kala son of Isham Singh, Suresh Kumar son of Kehar Singh and Rameshwar father of injured; Surrender Kumar took him in a private vehicle in the Government Hospital, Nigdhu for treatment. Hence, he requested for taking legal action against all the aforementioned persons. On the basis of said complaint initially case FIR No. 140 dated 16.05.2024 U/S 148,149,323,452,307,506 of IPC Police Station Nigdhu, District Karnal was registered against the petitioner and other co-accused Parmod @ Lucky son of Shishpal, Rahul son of Subhash, Gaurav Sto Nirmal, Santosh @ Sushma Rani W/o Shishpal, Tony Slo Suresh, Gaurav S/o Pala, Aman S/o Chatarpal, Kaki Sio Husanpal, Ashok S/o Pala Ram, Ankus S/o Pala Ram.

3. That That after registration of the case, investigation of this case was carried out by St Satyawan, who during the course of the investigation had recorded the statement of witnesses. During the course of the investigation on the night of 17/18.05.2024, information was received from the hospital that Surrender Kumar died during treatment. Thereafter proceedings under section 174 Cr.P.C. of deceased Surrender Kumar was got conducted and an application was moved by the Investigating Officer for conducting the post-mortem of the dead body from the doctor of Kalpana Chawla Government Medical College hospital, Karnal and the post-Mortem of dead body was got conducted from the Medical officer, Kalpana Chawla Government Medical College hospital, Karnal and the dead body of deceased surrender Kumar was entrusted to the heirs for cremation. During postmortem the doctor by conducting the postmortem of the dead body of the deceased Surrender Kumar, PMR report and parcel of viscera, parcel of clothes of deceased Surrender Kumar and vial duly sealed of doctor, which is in the name of Director FSL/ Madhuban, Karnal was taken into police custody through memo. Statements of witnesses were

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written. As per memo, the case property was deposited with the MohrarMalkhana of police station Nigdhu, Karnal. In post-mortem report doctor opined, that "in our opinion, the cause of death in this case is injury described over the abdomen and its complication", Copy of MLR and PMR of deceased is attached as Annexure R-I& R-II for the kind perusal of this Hon'ble Court. During investigation, section 302 of IPC was added in this case."

4. The petitioner's counsel argues that petitioner is being implicated being parent of main accused-Lucky @ Lovely @ Parmod, who has already been arrested by the police on 20.05.2024 and knife has been recovered from him. Counsel further submitted that the said Lucky has been sent to judicial custody after police remand. Perusal of the FIR does not point out any injury caused by the petitioner. It is also submitted that petitioner is 50 years old and no other criminal case is pending against him.

5. 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.

6. The State's counsel opposes bail and refers to the reply.

7. The complainant's counsel submits that petitioner's presence is confirmed with CCTV footage, in which petitioner is clearly seen at the place of incident with danda in his hand. In the footage, both, petitioner and his wife are seen hitting the deceased (Surender Kumar).

8. It would be appropriate to refer to the following portions of the reply, which read as follows:

"That the presence of petitioner/accused at the spot during the occurrence is confirmed by CCTV footage and therefore, the presence of petitioner/accused along with Danda during the occurrence reflects his guilty mind and prima-facie shows that he was acting in concern with the co-accused at the time of assaulting deceased Surender Kumar and others. The investigation is still going on against the petitioner/accused and custodial interrogation of the petitioner is very much required to recover the danda, which was used by him in the crime. In such circumstances, there is a real apprehension that in case the petitioner/accused is granted bail, he might hinder the investigation, influence the prosecution witnesses, obstruct the arrest of the co-accused and otherwise abscond from the process of law. Hence, considering the seriousness and gravity of the offence, the petitioner does not deserves the concession of extra ordinary relief of anticipatory bail Mat this stage, thus the present petition deserves to be dismissed."

9. A perusal of the bail petition and the documents attached prima-facie points towards the petitioner's involvement and does not make out a case for bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.

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

11. **Petition dismissed.** Interim orders, if any, are recalled with immediate effect. All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.