



102+218 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(i) CRM-M-38580-2024
Date of Reserve:04.11.2024
Date of Decision:05.11.2024

Himanshu Sharma ...Petitioner

Vs.

State of Haryana ...Respondent

(ii) CRM-M-39925-2024 (O&M)
Sagar @ Kaku ...Petitioner

Vs.

State of Haryana ...Respondent

(iii) CRM-M-43268-2024
Nirmal Sharma ...Petitioner

Vs.

State of Haryana ...Respondent

(iv) CRM-M-49674-2024 (O&M)
Sachin ...Petitioner

Vs.

State of Haryana ...Respondent

Coram : Hon’ble Mr. Justice N.S.Shekhawat

Present: Mr. Aman Raj Bawa, Advocate with
Mr. Daljeet, Advocate, Mr. Anmoldeep Singh, Advocate and
Mr. Mohit Thapar, Advocate
for the petitioner in CRM-M-39925-2024.

Mr. Harish Chhabra, Advocate with
Ms. Pooja Chhabra, Advocate and
Ms. Sushma Chhabra, Advocate
for the petitioner in CRM-M-38580-2024.

Mr. Tushant Deep Garg, Advocate with
Mr. Inderjeet Singh, Advocate
for the petitioner in CRM-M-43268-2024
and in CRM-M-49674-2024.

Mr. Rajinder Kumar Banku, Deputy Advocate General, Haryana.

Mr. Arpandeep Narula, Advocate
for the complainant/in respondent No.2 (in all cases).

N.S.Shekhawat J.

CRM-43415-2024 in/and CRM-M-49674-2024

1. Application is allowed as prayed for, subject to just all exceptions.
2. Annexure A-1 is taken on record.

Main case(s)

1. This order shall dispose of four petitions i.e. CRM-M-38580-2024, titled as "*Himanshu Sharma Vs. State of Haryana*", CRM-M-39925-2024, titled as "*Sagar @ Kaku Vs. State of Haryana*", CRM-M-43268-2024, titled as "*Nirmal Sharma Vs. State of Haryana*" and CRM-M-49674-2024, titled as "*Sachin Vs. State of Haryana*", whereby the petitioners have prayed for grant of concession of regular bail to them in a case arising out of FIR No.89, dated 09.03.2023, under Sections 323,325,148,149,341,307 and 506 of IPC (302 of IPC added later on), registered at Police Station Ellenabad, District Sirsa (Annexure P-1).
2. The FIR in the present case was registered on the basis of the statement made by Gurpal Singh son of Makhan Singh and the same has been reproduced below:-

"Stated that I am resident of Ward No. 5 Ellenabad, District Sirsa, aged about 40 years, mobile No. 8930202576 and I am

doing private job. I have two children and both are boys, the name of my elder son Harmeet Singh and younger son is Gurmeet Singh who is studying in 10th class. Today on 08.03.2023, my son along with his friend Rohtash son of Sadhu Ram, resident of Bighar, Charanjit Kumar son of Amar Singh, resident of Nomla had gone from the house at around 10.00 AM on his motorcycle TVS to enjoy the Holi festival and at around 1.00 PM, when my son and his friends reached at Tibbi Adda Ellenabad, then Ajay Brar resident of Ward No. 6 Ellenabad armed with Kapa, Raju son of not known resident of Ward No. 5 armed with baseball, Pinki son of Mange Datar resident of Ward No. 4 armed with Lathi, Amit Sitia Nayak resident of Ward No. 4 armed with bottle, Mukesh son of not known resident of Ward No. 4 and Avtar Singh Bhular resident of Ward No. 4 armed with Lathi and iron rod and their 4-5 unknown associates armed with brick/brick bats/stonewere already present there and they have stopped the motorcycle of my son and they had thrown his motorcycle on the ground, in the meantime, Ajay Brar has given blow of his Kapa to my son with the aim to kill him which hit on his head, Raju has given blow of his baseball on the head of Charanjit, Pinky has given blow of his Lathi on the left side hand of my son, Amit has given blow of his bottle on the head of Rohtash, Mukesh Avtar has given kick blows and fist blows to my son and 4-5 unknown persons have started beating to Rohtash and Charanjit and thrown bricks and stones on them and they all had caused injuries to my son and his friends. My elder son Harmeet alias Sonu has informed me about it that they are beating to my brother and his friends at Tibbi Adda, therefore I reached at the spot and on looking me there, all the assailants ran away from the spot along with their weapons by threatening to kill them and told that we have give you taste for not giving us the red colour, in the meantime, Ambulance reached there, then I made to sit my son, charanjit and Rohtash in the Ambulance who were badly injured and took them to Civil

Hospital Ellenabad, where the doctor has referred my son and Charanjit to Sirsa. Legal action be taken against Ajay Brar, Raju, Pinky, Amit Sitia Nayak, Mukesh, Avtar and their 4-5 unknown associates. Statement got recorded, heard, same is correct. Sd/- Gurpal Singh, attested by Rajbir SI, Police Station Ellenabad dated 08.03.2023”.

3. Learned counsel appearing on behalf of Himanshu Sharma (petitioner in CRM-M-38580-2024) vehemently argued that the petitioner was neither having any acquaintance with the deceased or injured nor with any of the co-accused. He further contends that even the petitioner was not named in the FIR and had no concern with the allegations levelled by the complainant in the FIR. He further contends that the petitioner has been wrongly involved in the present case only on the basis of the disclosure statement suffered by his co-accused. After completion of the investigation, the final report under Section 173 Cr.P.C. has been presented against the petitioner and his co-accused on 26.05.2023. After that, charge was framed against the petitioner and other co-accused on 04.10.2023. He further contends that the petitioner has been falsely involved in the present case only on the basis of an alleged CCTV footage and the same is yet to be proved during the course of trial. He further submits that in the present case, trial is at the initial stage and is not likely to be concluded in near future. Apart from that, Tej Pal @ Annu has been granted the concession of bail by this Court vide order dated 31.07.2024 (Annexure P-4) and the case of the petitioner is on better footing. Learned counsel appearing on behalf of Sagar @ Kaku (petitioner in CRM-M-39925-2024) also made similar arguments and submitted that the petitioner was arrested in the present case on 10.03.2023 and is in custody since then. Even he was not named in the FIR and

his name had surfaced only during the course of the disclosure statement made by the co-accused. Even as per the alleged CCTV footage, the petitioner could be seen empty handed and had withdrawn from the place of occurrence, as soon as the other co-accused started beating the injured in the present case. Learned counsel appearing on behalf of Nirmal Sharma (petitioner in CRM-M-43268-2024) vehemently argued that the petitioner was arrested in the present case on 09.03.2023. He is a young boy aged about 27 years and had no criminal antecedents. He was working in the sanitary shop of his cousin and the place of occurrence was also near to the shop of his cousin. When fight started, the petitioner also came out and had witnessed the occurrence. Further, similarly placed co-accused Tej Pal @ Annu has been granted the concession of bail by this Court. Similarly, learned counsel appearing on behalf of Sachin (petitioner in CRM-M-49674-2024) also argued that the petitioner is in custody since 11.03.2023. He is a young boy aged about 24 years and had no criminal antecedents. He was neither named in the FIR nor there is no any averment in the FIR, which even remotely connects the petitioner with the present crime. Apart from that, the petitioner is a first offender and deserves the concession of bail by this Court.

4. On the other hand, learned State counsel assisted by learned counsel for the complainant have vehemently opposed the submissions made by learned counsel for the petitioners on the ground that the serious allegations have been levelled against the petitioners and they had present at the place of occurrence. However, admittedly, the petitioners have not caused any injuries to the deceased.

5. I have heard the learned counsel for the parties and perused the

record.

6. It is an admitted fact that the petitioners were not initially named in the FIR and during the course of investigation, a CCTV footage was recovered by the police and the petitioners are also shown to be present at the place of occurrence. Apart from that, similarly placed co-accused Tej Pal @ Annu has already been granted the concession of bail by this Court. The petitioners are in custody since sufficiently long time and no purpose will be served by sending them behind the bars.

7. Without commenting on the merits of the case, the present petition is allowed. The petitioners are ordered to be released on bail pending trial on their furnishing bail bonds and surety to the satisfaction of the concerned trial Court/ Duty Magistrate/Chief Judicial Magistrate subject to the following conditions:-

(i) The petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade them to disclose such facts to the Court or to any other authority.

(ii) The petitioners shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioners shall not absent themselves from the Court proceedings except on the prior permission of the Court concerned.

(iv) The petitioners shall surrender their passports, if any, (if already not surrendered), and in case they are not holder of the same, they shall swear an affidavit to that effect.

(v) The petitioners shall also file their affidavits before the concerned Court, mentioning their ordinary place of residence and number of mobile phone, which shall be used by them during the pendency of the trial. In case of change of place of

residence/mobile number, they shall share the details with the concerned Court/learned Trial Court.

(vi) In case, the petitioners are involved in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.

(vii) The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioners.

(viii) The petitioners shall report on every 1st Monday of English calender month to the concerned SHO till the conclusion of the trial and SHO shall mark their presence by making an entry in the Rojnamcha.

8. In case, the petitioners violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to them shall be liable to be cancelled and the prosecution shall be at liberty to move an application in this regard.

9. Pending application(s), if any, stand(s), disposed of, accordingly.

(N.S.SHEKHAWAT)
JUDGE

05.11.2024
hitesh

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No