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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-43535-2024 (O&M)
Date of Decision:-01.10.2024

ASHU AND ANOTHER

... PETITIONERS

Versus

STATE OF HARYANA

... RESPONDENT

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Rahul Jaswal, Advocate, for the petitioners.

Mr. Ramender Singh Chauhan, AAG, Punjab.

SANJIV BERRY, J (ORAL)

CRM-36402-2024

1. Application under Section 482 Cr.P.C is for placing on record copy of FIR dated 27.03.2023 (Annexure P-10).

2. Heard.

3. Application is allowed, subject to all just exceptions, copy of FIR dated 27.03.2023 is taken on record as (Annexure P-10).

Main case

1. Learned State counsel has filed reply by way of affidavit dated 18.09.2024 of Deputy Superintendent of Police, Samalkha, Panipat, the same is taken on record, copy thereof has been supplied to the counsel opposite.



2. By way of the present petition filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) the petitioner is praying for anticipatory bail in the event of arrest in FIR detailed as under (Annexure P-2) :-

FIR No.	Dated	Sections	Police Station
0049	03.03.2023	148, 149, 323, 506 IPC ((308, 325 and 326 IPC added later on)	Sanoli, District Panipat.

3. Argument heard.
4. It is, *inter alia* contended by learned counsel for the petitioners that the petitioners are innocent and have been falsely implicated in this case. He contends that petitioners were not named in the FIR but nominated on the basis of disclosure statement of co-accused namely Arshad (Annexure P-5) and no specific overt act has been attributed to the petitioners. He contends that no other criminal case is registered against the petitioners and they are ready to join the investigation. Hence he prays for grant of anticipatory bail to the petitioners.
5. *Per contra* learned State counsel referring to the reply submitted by the State has assailed these arguments by submitting that when Kanungo and Patwari were on duty for demarcation of land the petitioners and other co-accused with an intention to deter demarcation by public servants attacked them and other persons and injured them. He contends that the petitioners were nominated on the basis of disclosure statement made by co-accused Rahil and photographs of the incident (Annexure R-5) where it is specifically shown that petitioners were armed



with wooden dandas at the time of incident and in the incident one of the injured namely Islam has lost his eye sight. He contends that 13 persons were injured in the incident and some of them received grievous injuries. He contends that recovery of weapon as well as nature of injuries and attack on public servants while on duty would not entitle petitioners for concession of anticipatory bail, as such, he prays for dismissal of the bail petition.

6. After considering the arguments and perusing the record, it is transpired that Israel former Sarpanch had filed a complaint stating that on 03.03.2023 at about 3:00 pm had called Patwari and Kanungo to demarcate the plot and fields, when they proceeded for demarcation other party having 15-20 persons also present there stopped them and threw stones and bricks on them from the houses, then Arshad attacked with cutter on Iqbal, Akhtar gave a stick blow on Jhangir, Mumtaz gave lathi blow to Abbas, Rashid gave lathi blow to Waseem, Raheesu gave lathi blow to Jamshed, Nawab Ali gave lathi blow to Aas Mohammad, Taseem gave lathi blow to Mubeen, Rahil gave lathi blow to Israel. Mustaq with an intent to kill them accelerated his tractor upon Islam, Sharafat and many others and in the scuffle 7-8 persons were injured. Hence FIR was registered.

7. In the occurrence, Rahil was arrested and in his disclosure statement petitioners were nominated as accused. The petitioners have actively participated in the occurrence which is shown in the photographs (Annexure R-5) of the incident having armed with Dandas, one of the injured Islam has lost his eye sight from his left eye in the incident and several persons have been injured in the occurrence. Therefore, considering

the nature and gravity of offence, no case is made out in favour of the petitioners for grant of anticipatory bail in the present petition, the same is hereby dismissed.

8. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

01.10.2024

Gyan	i)	Whether speaking/reasoned?	Yes/No
	ii)	Whether reportable?	Yes/No