

2024:PHHC:133574



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

Sr. No.208

**CRM-M-46615-2023 (O&M)
Date of decision : 14.10.2024**

Rajesh Sharma @ Rajesh Kumar and another

..... Petitioners

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Abhimanyu Singh, Advocate, for the petitioners.

Mr. Gaurav Bansal, DAG, Haryana.

Mr. Viney Saini, Advocate, for the complainant.

KIRTI SINGH, J. (Oral)

1. Apprehending arrest in case FIR No.415 dated 31.08.2023, under Sections 148, 149, 323, 380, 427 & 506 IPC, registered at Police Station Kurukshetra University, District Kurukshetra, Haryana, the petitioners have preferred this petition under Section 438 Cr.P.C. for grant of anticipatory bail.

2. The relevant version of the FIR is reproduced below:-

“To SHO, Police Station Jyotisar. Sir, it is submitted that I am Mamchand son of Sh. Ajmer is resident of Village Barwa. My mother Leela Devi has purchased land measuring 36 marls from Rajesh Kumar son of Braham Swaroop in the year 2019 and Rajesh got the registry done in my mother's name and Rajesh Kumar had also entered with me an agreement for land measuring 26 marlas and he has not got the sale deed registered in my name and my mother has transferred her 36 marlas of land in favour of we all three brothers and since 2019, we are having possession over the said land and on

2024:PHHC:133574



30/31.08.2023, in the night, me and my brother Ram Partap were sleeping near the room which is situated in the fields at about 1.30 a.m. We heard the noises of JCB from the road side and about 15-16 people came towards us after using the path which is their in our fields along with JCB, out of them, I and my brother identified Rajesh Kumar, Satish Kumar sons of Braham Swaroop and Rahul son of Rajesh Kumar, Hari Om son of Satish Kumar and Deepak Balu who is nephew and Satish Kumar, after calling JCB person that whatever articles were lying here, tractor, trolley or other articles, he directed thte said person to demolish the room/kotha which is built in the fields and Rajesh kumar had given danda and binda blows on my legs and my brother Ram Pratap after running from there had saved himself after hiding in paddy fields and they have destroyed four rooms, three tractor, two trolley, two hadwa and they have also destroyed/demolished 21 foot verandah and one khokha and they have also taken one battera along with them and they have destroyed out all articles and while leaving, Satish and others threatened us to kill. It is humbly prayer to you that kindly take strict legal action and justice may be given to us and I am also presenting my MLR and complaint. Sd/- Mamchand applicant, Mamchand son of Ajmer Singh, resident of Village Barwa, District Kurukshetra dated 31.08.2023 and mobile No.9729369006.”

3. Learned counsel for the petitioners *inter alia* submits that the petitioners have been falsely implicated in this case and some litigations are pending between both the parties due to which, there is a enmity between the complainant and the petitioners. In this regard, one civil suit under Section 9 Order 4 Rule 2 CPC for declaration and possession along with consequential relief of mandatory and permanent injunction has been filed by him before the learned Civil Judge, Senior Division, Kurukshetra in the year 2020 and

2024:PHHC:133574



since, this dispute of land is pending between the complainant and the petitioners, therefore, the complainant party has a motive to implicate the petitioner in false and frivolous case. It has also been argued that there are various disputes between the complainant and the petitioners, for which, various FIRs have been registered.

4. *Per contra*, learned State counsel has opposed the prayer made by the learned counsel for the petitioners. As per reply dated 07.09.2024, it has been submitted that the incident as alleged by the complainant incidentally got captured in CCTV camera installed near the site. The video recording was converted into a pen drive by the complainant, which when played clearly substantiates the allegations leveled by him (complainant). He further submits that the petitioners are habitual offenders and there are 03 other cases have been registered against them and the petitioners are not cooperating with the investigation.

5. Learned counsel for the complainant draws attention of this Court to CRM-35559-2024 in which, it has been stated that during the period of interim bail granted to the petitioners by this Court, the petitioners again entered in the premises of the complainant and threatened him and tried to merge the path of the fields of the complainant in their land on 21.07.2024. He submits that on the basis of that incident another FIR No.0353 dated 24.07.2024 (Annexure C-2) under Sections 351 (2) & 79 of BNS, 2023 has been registered against the petitioners.

6. Heard the rival submissions made by the learned counsel for the parties.

2024:PHHC:133574



7. In view of the serious allegations leveled against the petitioners and in view of the fact that the petitioners have misused the interim relief granted to them by this Court and also considering the fact that the petitioners have not cooperated with the investigation, this Court is of the considered view that in order to unearth the true dimensions of the alleged crime, the police requires custodial interrogation of the petitioners in this case. Hence, the petitioners are not entitled to the concession of the anticipatory bail and accordingly, the petition is dismissed.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

14.10.2024

Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No