



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.46646 of 2024
Date of decision: 27.09.2024

Hanuman ... Petitioner

Vs.

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Arpandeeep Narula, Advocate,
for the petitioner.

Mr. Arjun Lakhanpal, Addl. AG, Haryana,
for the respondent-State.

Mr. Dheeraj Narula, Advocate,
for the complainant.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking anticipatory bail in case arising out of FIR No.553 dated 13.08.2024 registered under Sections 110, 115, 118 (1), 126, 3 (5) and 351 (2) of the Bharatiya Nyaya Sanhita, 2023 (For short “BNS”) (Section 118 (2) of BNS added later on) at Police Station Rania, District Sirsa.

2. The case as set up by the prosecution relevant for the purpose of disposal of this petition is that the aforementioned FIR was registered



on the basis of statement recorded by the complainant Mohan Singh on 13.08.2024 alleging therein that on 09.08.2024 at about 7:30 PM, he along with his brother Rajender was going towards his agricultural land and when they reached at the passage near their fields, they were intercepted by the petitioner and co-accused Prahlad, Amar Singh, Rai Singh and Ved Parkash, all of whom were armed with weapons. The accused Ved Prakash made an exhortation that the complainant and his brother should be taught a lesson for lodging a complaint against them with the Electricity Board and should be eliminated. On hearing so, the petitioner opened an assault upon the complainant by striking blow with kappa held in his hands thereby hitting his head. He along with the co-accused Prahlad then caused injuries to the brother of the complainant by striking blows with the weapons held by them. Rescue alarm raised by them attracted several persons including Amarjit, brother of the complainant on seeing whom the assailants fled away. They were rushed to the hospital and are under treatment. He alleged that the motive behind the occurrence was that the petitioner and the co-accused were causing obstruction in the passage leading to his agricultural land by getting electricity poles installed therein qua which a complaint has been filed by the complainant with the Electricity Board. After registration of FIR, investigation proceedings have been initiated and are underway. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail which has been dismissed by the Court of



learned Sessions Judge, Sirsa vide order dated 12.09.2024.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. There is delay of 4 days in lodging of the FIR which has created a serious dent about the truthfulness of the version of the complainant as well as other injured. The medical report regarding sustaining grievous injury by injured Rajender in his ear has been produced after a gap of 18 days from the date of alleged occurrence. This report has been taken from a private hospital and not by any Government hospital. The ingredients for commission of offence punishable under Section 118 (2) and 110 of BNS are not attracted. The petitioner is ready to join the investigation. His custodial interrogation is not required. His detention would not serve any purpose. The co-accused Ved Parkash whose case is on similar footing has been extended benefit of pre arrest bail. On the ground of parity, he too deserves to be granted benefit of bail. Therefore, it is urged that the petition deserves to be allowed.

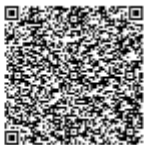
4. Status report has been filed by the respondent-State. It is submitted therein and it is argued by learned State counsel assisted by learned counsel for the complainant that there are serious and specific allegations against the petitioner. He was named in the FIR. The statements of the complainant could not be recorded just after the occurrence as he was not fit to make the same. Learned counsel for the complainant has drawn the attention of this Court to Annexure A-3 which



is copy of OPD slip issued by Maharaja Agrasen Medical College and Hospital, Agroha showing that the injured Rajender i.e. brother of the complainant had been making complaint of hearing loss. Along with this OPD slip is annexed a report issued from the same hospital showing that there was complaint of profound hearing loss in right ear of Rajender. A photograph of the complainant has also been annexed as Annexure A-6 showing him to be in injured condition. It is argued that the petitioner along with the co-accused had voluntarily caused grievous hurt by dangerous weapons to the complainant and his brother. His brother has suffered hearing loss out of the injuries so sustained by him at the hands of the petitioner. Therefore, it is urged that the petition does not deserve to be allowed.

5. I have heard learned counsel for the parties at considerable length and have gone through the record.

6. The petitioner along with the co-accused is alleged to have assaulted the complainant and his brother on 09.08.2024. As per the allegations, he had struck blows with a kappa on the person of Rajinder, brother of the complainant thereby causing injury on his head. Co-accused Prahlad had also struck a blow with iron sabbal on his head. As per the medico legal report of Rajender placed on record as Annexure A-2, he had sustained three injuries one of which was on his parietal region. This very injury has subsequently been opined to have resulted into loss of hearing of injured Rajender from one ear. It is revealed on record that



though previously the victim Rajender had been examined by a private doctor and it was on the basis of report given by the private hospital to the effect that the injury sustained by him could cause loss of hearing that the offence under Section 118 (2) of BNS was added. However, now the victim Rajender has been medically examined at a Government Hospital also and the report shows profound hearing loss in the right ear. The injury so sustained *prima facie* attracts the commission of offence under Section **118 (1)** of BNS by the petitioner. The co-accused Ved Parkash who has been extended benefit of pre arrest bail has not been attributed any such injury. The allegations against the petitioner are graver in nature. It is well settled proposition of law that the gravity of the offence and the severity of the punishment is to be considered at the time of extending benefit of pre arrest bail to an accused. Even otherwise, no exceptional or extraordinary circumstance warranting exercise of powers of anticipatory bail has been made out in this case. As such, this Court is of the considered opinion that the petitioner is not entitled to be extended benefit of pre arrest bail. Hence, the petition is dismissed.

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

(MANISHA BATRA)
JUDGE

27.09.2024
Parveen Sharma

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