



CRM-M-46577-2024

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

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Date of decision: 23rd October, 2024

Anil Nauhwar and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Baljeet Beniwal, Advocate for the petitioners.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. R.K. Choudhary, Advocate for the complainant.

MANISHA BATRA, J (ORAL):-

Through the instant petition filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS'), the petitioners seek anticipatory bail in case FIR No. 406 dated 20.08.2024 registered under Sections 115, 117(2), 190, 191(3), 304 and 351(2) of Bharatiya Nyaya Sanhita, 2023 (for short 'BNS') at Police Station City Palwal, District Palwal.

2. Vide order dated 18.09.2024 passed by this Court, the petitioners were released on interim bail and were directed to join investigation. On 18.09.2024, the following order was passed:-

“Prayer in this petition has been made by the petitioner seeking pre arrest bail in case arising out of FIR No.406 dated



20.08.2024 registered under Sections 115, 117(2), 190, 191(3), 304 and 351(2) of Bharatiya Nagarik Suraksha Sanhita (BNSS) at Police Station City Palwal, District Palwal on the basis of statement recorded by the complainant-Somdutt alleging therein that on 08.08.2024 at about 10 pm, he was present in his hotel namely, HR 30 hotel which he was running in the vicinity of village Alapur, Palwal. When the petitioners along with co-accused reached there, they were under influence of alcohol. All of them had started having liquor in hotel premises also despite the fact that they were specifically refused to do so. Thereafter, accused Manha has demanded a sum of Rs.1500/- from him for which complainant was compelled to give. Sometime thereafter, they had demanded more money and when he refused to do so, he was assaulted by the petitioner and co-accused had taken a sum of Rs. 2500/2600 which was kept in his cashbox. His mobile phone was also damaged. The petitioners and other accused also called 8-10 youths who too had assaulted him and caused four blunt injuries to him. After registration of FIR, investigation proceedings have been initiated and are underway. Apprehending his arrest, the petitioners had moved an application for grant of anticipatory bail which had been dismissed by the Court of learned Additional Sessions Judge, Palwal vide order dated 13.09.2024.

It has been argued by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case. In fact, on the fateful night, the complainant who was also under the influence of liquor had a verbal altercations with co-accused Rahul who sustained injuries at the hands of the complainant. No specific role has been attributed to him qua the injuries sustained by the complainant. There is delay of 12 days in lodging of FIR. No recovery is to be effected from the



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petitioner. He is ready to join the investigation. His custodial interrogation is not required.

Notice of motion.

Learned State counsel who has appeared on advance notice of the petition, seeks time to file status report in the matter.

Adjourned to 23.10.2024.

In the meantime, the petitioners are directed to appear before the Investigating/Arresting Officer to join investigation within one week or as and when subsequently required thereafter. In the event of their arrest, the Investigating/Arresting Officer shall release the petitioner on interim bail on furnishing personal/surety bonds to his/her satisfaction. The petitioners shall also abide by the conditions as envisaged under Section 482(2) of BNSS.”

3. Status report is filed by respondent-State. It is submitted by learned State counsel that the petitioners have joined investigation on 15.10.2024. It is submitted that as per the CCTV footage taken from the camera installed at the place of occurrence, the petitioners had assaulted the victim in a brutal manner and had caused serious injuries to him. The victim sustained fractures in his leg. Pen drive of the said CCTV footage is taken on record. It is urged that keeping in view the gravity of the offence as alleged to be committed by the petitioners, the order of interim bail does not deserve to be made absolute.

4. *Per contra*, it is urged by learned counsel for the petitioners that custodial interrogation of the petitioners is no more required as no recovery is to be effected from them. They have already joined the investigation and

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are ready to join further investigation. As such, it is urged that the petition deserves to be allowed.

5. The petitioners have joined investigation on 15.10.2024. The pen drive containing extract from the CCTV footage has been seen and though the same show some persons while assaulting the victim and even the medico legal report also shows that the victim had sustained grievous injuries, however, there is no material on record to show that the offence of snatching (Section 304 BNS) had been committed by the petitioners. The other offence for which they have been booked are bailable in nature. It is debatable as to whether offence under Section 351(2) of BNS has been made out at all or not? The subject offences are triable by the learned Magistrate. As such, I am of the considered opinion that no useful purpose would be served by detaining the petitioners in custody anymore. In view of the above said facts, without commenting on the merits of the case, the present petition is allowed and the order dated 18.09.2024 granting interim bail to the petitioners is made absolute, subject to the conditions laid down in Section 482(2) of the BNSS.

[MANISHA BATRA]
JUDGE

23rd October, 2024*Parveen Sharma*

1. *Whether speaking/ reasoned*
2. *Whether reportable*

: *Yes / No*
: *Yes / No*