

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

209

CRM-M No.48202 of 2022
Date of decision: 28.11.2024

MOHIT AND ANOTHER Petitioners
Versus
STATE OF HARYANA Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

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

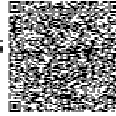
Mr. Neeraj Poswal, A.A.G., Haryana.

MANISHA BATRA, J. (oral)

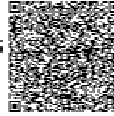
1. Prayer in this petition, filed under Section 482 of Bharatiya
Nagarik Suraksha Sanhita, 2023 (for short 'BNSS'), is for grant of anticipatory
bail to the petitioners in case FIR No.406 dated 20.08.2024 registered under
Sections 115, 117(2), 190, 191(3), 304 and 351(2) of BNS, 2023at Police
Station City Palwal, District Palwal.
2. Vide order dated 03.10.2024, passed by this Court, the petitioners
were granted interim bail and were directed to join investigation. Order dated
03.10.2024, passed by this Court, reads as under:

*“Prayer in this petition, filed under Section 482 of BNSS,
2023, is for grant of anticipatory bail to the petitioners 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 BNS, 2023at
Police Station City Palwal, District Palwal.*

*The aforementioned FIR has been registered on the basis of
statement recorded by the complainant-Somdutt alleging therein*



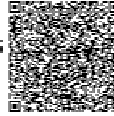
that on 08.08.2024 at about 10 pm, he was present in his hotel namely, HR 30 hotel, which he was running in the vicinity of village Alapur, Palwal. When petitioner Monu along with Anil, Gopal Nauhar, petitioner Monu and one more person reached there, they were under influence of alcohol. All of them 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. Petitioner Monu and other accused, who were accompanying them, then called some more youths, who came in an Innova car. Petitioner Mohit Thakur and co-accused Satvir were amongst them. They were armed with iron rods, lathis and hammers and opened an assault upon the complainant. To rescue himself, he rushed toward CNG Petrol Pump but they caught hold of him and extended beatings to him. They also snatched mobile phone of one Narain, who was present at the petrol pump. In the meanwhile, the police had reached there and then the accused persons fled away from the spot. After registration of FIR, investigation proceedings have been initiated and are underway. Apprehending their 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 21.09.2024.

*It has been argued by learned counsel for the petitioners that they have been falsely implicated in this case. No specific role has been attributed to them. There is delay of 12 days in reporting the matter to the police. In fact, the complainant was also drunk at the time of occurrence and he had altercation with one Rahul and had caused injuries to said Rahul. Co-accused Gopal and Anil Nauhar have been extended benefit of interim anticipatory bail by this Court, vide order dated 18.09.2024 passed in **CRM-M-46577-2024**. On the ground of parity, the petitioners too deserve to be extended the same benefit. As such, it is urged that the petition deserves to be allowed.*

Per contra, learned State counsel, assisted by learned counsel for the complainant, has submitted that there are specific and serious allegations against the petitioners, who by forming membership of an unlawful assembly with the co-accused and in prosecution of common object of that unlawful assembly, had brutally assaulted the complainant, thereby causing several injuries, which included grievous injuries as well, on the person of the complainant and had criminally intimidated him. The complainant has sustained grievous injuries on his lower limbs as the same was even operated. It is, therefore, urged that keeping in view the part played by the petitioners, they do not deserve to be extended benefit of anticipatory bail.

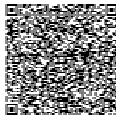


I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

The petitioners along with co-accused are alleged to have formed membership of an unlawful assembly and in prosecution of common object of that unlawful assembly are alleged to have caused simple as well as grievous injuries on the person of the complainant. Co-accused Gopal and Anil Nauhar, qua whom similar allegations were levelled, have since been extended benefit of interim anticipatory bail. The offence punishable under Section 117(2) of BNS is bailable in nature. It is debatable question as to whether the provisions of Section 304 of BNS are attracted in the matter as there is no specific allegation against the petitioners that they had snatched anything from the complainant or any other person.

In view of the above, 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 petitioners 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, 2023.

List again on 28.11.2024.”



3. Learned State counsel, on instructions from the Investigating Officer, has submitted that the petitioners have joined investigation on 16.10.2024 and they are not required for custodial interrogation.
4. Keeping in view the above mentioned facts and circumstances, without commenting on the merits of the case, the present petition is allowed and the order dated 03.10.2024, granting interim bail to the petitioners, is made absolute, subject to compliance of usual terms and conditions requisite for grant of anticipatory bail.

28.11.2024
Jyoti-IV

(MANISHA BATRA)
JUDGE

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