

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-48518-2024 (O&M)

Date of Decision: 27.09.2024

Saroj ... Petitioner
VS.
State of Haryana ... Respondent

CRM-M-48740-2024

Sanisha ... Petitioner
VS.
State of Haryana ... Respondent

CORAM: HON’BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Abhinav Gupta, Advocate for the petitioner(s)

Mr. BS Virk, Sr.DAG Haryana

Sandeep Moudgil, J.

(1). This order shall dispose of the above-cited two criminal misc. petitions wherein the petitioners have sought anticipatory bail in a common FIR. Detailed order is being passed in CRM-M-48518-2024 treating it to be the lead case.

(2). The jurisdiction of this Court has been invoked under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, for grant of anticipatory bail to the petitioners in FIR No.315 dated 29.08.2024 under Sections 115(2)/333/351(2)/3(5)/126(2)/61(2)/324(4) of Bhartiya Nyaya Sanhita (BNS) (Section 117(1) BNS added later on), registered at Police Station Dharuhera, District Rewari (Annexure P1).

Facts

(3). Facts as culminating in the FIR is reproduced as under:-

“Statement of Rakesh son of Ravinder Kumar resident of Kharkhara, Police Station Dharuhera, District Rewari aged about 36

years, mobile No. 9416889055, I would like to state that I am resident of above noted address a and I am running Legal consultancy office in Hari Nagar, Dharuhera. Yesterday on 27.08.2024 Bhupinder Singh who is tenant of ground floor in this building, has brought the machine after its repair then Harinder son of Sh. Tej Singh resident of Kharkhara District Rewari who is our neighbour came there and he restrained to keep the said machine inside the building, then Bhupender informed me about it but I don't go there and I told Bhupinder to make phone call at helpline No. 112, then Bhupender has made phone call at helpline no. 112, the police came and compromise the matter between both the parties and told both the parties to come present in the Police Station. Thereafter on 28.08.2024, I was working in my office then at around 2.30 PM, Saroj wife of Harinder, Prabha wife of Dev Raj alias Sonu, Sanish alias Sunny daughter of Harender, Suman alias Noni daughter of Harrender, residents of Kharkhara District Rewari come in my office and they were armed with Dandas, they all forcibly entered into my office and started beating me with Dandas and giving fist blows as well as slapping and when restrained them not to do so then they damaged the furniture glass etc. of my office and caused loss to my office. Thereafter I made their video with my mobile but they were trying to snatch my mobile phone. I tried to go from there then they stopped my way and not allowed me to go out from the office but on getting a chance when tried to go out from the office then they all threatened me that today you got saved, but in future if you come here then we will kill you. Thereafter I went to Police Station in my car to give complaint in this regard the Harinder and his son Dev Raje Sonu were standing on one corner of the Police Station, they stopped me and also broken the bumper of my car and threatened to kill me, I ran away from there. Thereafter I admitted in Government Hospital Rewari, where I am under treatment. Earlier also my mother Krishna Devi wife of Sh. Ravinder Singh has given complaint in the Police Station against above said accused. They quarreled and beaten regarding me the partition of my building situated in Hari Nagar Dharuhera. Harinder and Devraj had beaten me through the ladies of his family. Now you come to the Government Hospital to record my statement, I have got

recorded my statement. I have read it, same is correct. All the above said accused had beaten me without any reason in connivance to each other, legal action be taken against them. Statement got recorded, heard, same is correct. All the above said persons had locked the main gate of my building. Sd/- Rakesh attested by Sd/- Nitin, ASI, Police Station Dharuhera dated 29.08.2024. Police proceedings: ON 28.08.2024...”

Petitioner's submission

(4). The petitioner's counsel contends that she has been wrongly accused in this case as the property where the alleged incident occurred is jointly owned and possessed by all parties involved and as such, no offense of house-trespass after preparation for hurt, assault or wrongful restraint under Section 333 of the B.N.S. has been committed by the petitioner. It is further submitted that complainant, along with Bhupender, is allegedly operating a water bottling plant on the premises without authorization regarding which Harinder has already filed a complaint against the complainant and evidently it is believed that this false case has been registered against the petitioner and co-accused in retaliation for their complaint.

Stand of the State/complainant

(5). Kr. Prashant Singh Chauhan, Advocate has filed vakalatnama on behalf of the complainant which is taken on record. He along with learned State counsel opposed the prayer for anticipatory bail to the petitioner on the ground that the petitioner and other co-accused forcibly entered in the house of the complainant and gave beatings to them causing grievous injuries leading to loss of right upper central incisor teeth and fracture on the little finger of his right hand besides loss to property and building. They further assert that there

is CCTV footage of the entire incident and as such, the prosecution has vital and sufficient evidence against the petitioner.

Analysis

(6). After considering the arguments of learned counsel for the petitioner as well as learned counsel for the State and the complainant, it can be seen that the allegations against the petitioner are that she along with co-accused, in furtherance of their criminal conspiracy, forcibly entered the complainant's office, assaulted him, causing five injuries, including loss of a tooth and a fractured finger, and destroyed property, including window panes and furniture. It is the case of the prosecution that CCTV footage has also been captured showing the petitioner committing these offences.

(7). Learned counsel for the complainant has even handed over photographs of the incident which are taken on record as Mark A collectively, which clearly corroborates the prosecution's case and therefore, the argument that Section 333 of the B.N.S. is not applicable, cannot be adjudicated at this stage as the evidence clearly establishes their involvement in the commission of the offences and requires to be disproved by leading evidence in the trial proceedings. Moreover, the weapons used in the commission of crime is also yet to be recovered from the petitioner.

(8). In view of the above discussion, this Court does not find any ground to grant the concession of anticipatory bail to the petitioner.

(9). Dismissed.

27.09.2024
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No