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

CRM-M-50136-2024
Reserved on: 05.12.2024
Pronounced on: 19.12. 2024

Ravinder Kumar @ Jhandu and others ...Petitioners

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vimal Kumar Gupta, Advocate
for the petitioners.

Mr. Rajat Gautam, Additional A.G.Haryana.

Mr. Mukul Bura, Advocate
for respondents no. 2 to 4.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
253	06.08.2024	Chhapar, District Yamuna Nagar	109 (1), 115, 118(1), 3(5) and 351 (2) of the BNS Act, 2023

1. The petitioners apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
2. In paragraph 9 of the bail petition, the accused declares that they have no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“That in this regard, it is submitted that the detailed facts of the complaint have been given in Annexure -P1 enclosed with the petition. However, the gist of the case is that on 04-08-2024, information was received from Civil Hospital Jagadhri that Lokesh Kumar (respondent no.2), Mewa Ram (respondent no.4) and Gagan (respondent No.3) are admitted in Civil Hospital Jagadhri due to injuries sustained in a quarrel. After receipt of information SI Baldev Raj went to Civil Hospital, Jagadhri and collected the MLR and medical rucka of the injured Gagan (respondent No.3), Lokesh Kumar (respondent no.2) and Mewa Ram

(respondent no. 4) and also moved an application to the medical officer regarding fitness of injured to make statement. The doctor declared the injured unfit to make statement. On 05-08-2024 information was received from GMCH, Sector 32, Chandigarh Police Post that the injured Mewa Ram (respondent no.4), Gagan (respondent No.3) are admitted due to injuries are admitted GMCH Sector 32 Chandigarh. On this, SI Baldev Raj reached at GMCH, Sector 32, Chandigarh and moved an application regarding fitness of injured to make statement. The doctor declared the injured unfit to make statement. After that police reached at Civil Hospital, Jagadhri to record the statement of injured Lokesh Kumar (respondent no.2) and moved an application to the medical officer regarding fitness of injured to make statement. The doctor declared the injured Lokesh Kumar (respondent no.2) to make statement, but the family members of Lokesh said that the parents of Lokesh Kumar (respondent no. 2) are not present yet so after making consultation they will get recorded the statement. After that on 06-08-2024, statement of injured Lokesh Kumar (respondent no.2) was recorded. The injured Lokesh Kumar (respondent no.2) stated that he is studying in class 12th in RK Saraswati Nagar (Mustafabad). On 03-8-2024, there was a Jagran of Panchayat on the eve of Shivratri festival in village Bhagwanpur in relation to Kavad, the time was around 10-30 pm, the Jagran had not started yet, on this his friends Mewa Ram (respondent no. 4) and Gagan (respondent No. 3) said let's go and drink cold drink. All the shops in village Bhagwanpur were closed. So, he, Mewa Ram (respondent no.4) and Gagan (respondent No.3) sat on his motorcycle and went to Chhapar to drink cold drink at around 11-30 pm at kiosk at Ambala road near Sharma Petrol Pump police station Chhapar near kiosk, Jhandu (petitioner no.1), Golu (petitioner no.2), Prince (petitioner no.3) came on their motorcycle, carrying sticks, gandasi and sharp axes. As soon as they arrived, they hit the cold drink in their hand and made it fall, and started arguing with them. When they asked the reason, Jhandu (petitioner no.1) called his two other friends, and without any reason Prince (petitioner no.3) hit the gandasi on the head of Mewa Ram (respondent no. 4), and then Prince hit the second blow of his gandasi on the head of Gagan (respondent No.3), and Jhandu hit him (injured Lokesh) on his chest with the sharp weapon, axe in his hand, and hit his (injured Lokesh) waist, and Golu hit the rod in his hand on his (injured Lokesh) left thigh and hit his (injured Lokesh) head, and Jhandu, Golu, Prince and the other two boys kept on hitting Gagan (respondent No. 3) and Mewa Ram (respondent no.4) continuously. Hearing the noise of the quarrel, many people came to the spot and he

(injured Lokesh) took advantage of the darkness and fled from the spot. He (injured Lokesh) was standing in the dark and watching the quarrel. Seeing many people gathering at the spot, Jhandu, Golu, Prince, along with their two other companions, with their weapons, threatened to kill them (injured) and left on their motorcycle. After some time, an ambulance arrived at the spot and he (injured Lokesh) also reached there. He (injured Lokesh), Mewaram, and Gagan (respondent No. 3), sat in the ambulance and went to the Civil Hospital, Jagadhri for treatment. Mewa Ram (respondent no.4) and Gagan (respondent No.3), who had fainted in the ambulance, were referred by the doctor to GMCH Sector 32 Chandigarh due to severe injuries. So, legal action be taken.”

4. The petitioners’ counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.
5. The State’s counsel opposes bail and refers to the reply.
6. The complainant's counsel states they have no objection if this Court grants bail.
7. It would be appropriate to refer to the following portions of the reply, which read as follows:

“8. That during the course of investigation conducted so far, it has been found that in the night of 03-08-2024 at about 11:30 PM, the petitioners came on a motor cycle at the kiosk where injured were taking cold drink and abused Lokesh, Gagan and Mewa Ram. The petitioner no.1 Ravinder Kumar alias Jhandu after making phone call called his two accomplices. The petitioner no.3 Prince hit Gandasi on head of Mewa Ram (respondent no.4) and also attacked on the head of Gagan (respondent No.3) with gandasi. The petitioner Ravinder Kumar alias Jhandu hit gandasi on chest and waist of injured Lokesh. The petitioner Arun Kumar alias Golu hit rod left knee and head of the injured Lokesh. As such petitioners alongwith their two accomplices who were called by accused Jhanu (petitioner No.1) by making phone call gave beatings to the injured Gagan (respondent No. 3), Mewa Ram (respondent no. 4) and Lokesh (respondent no. 2).”

8. Although there is sufficient evidence against the petitioner since the victims do not object to the bail, the reasons for the rejection must be exceptional, which is not the case. Further, the Police did not arrest the petitioners; if they intended to arrest the petitioners, it was not impossible. A perusal of the reply does not point out the steps taken to arrest the accused.
9. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be *prima facie* sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.
10. Given the above, the penal provisions invoked coupled with the *prima-facie* analysis of the nature of allegations, no objection of the victim to bail and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order.
11. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioners make a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.
12. Given above, provided the petitioners are not required in any other case, the petitioners shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.
13. While furnishing a personal bond, the petitioners shall mention the following personal identification details:
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| 1. | AADHAR number | |
| 2. | Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk. | |
| 3. | Mobile number (If available) | |
| 4. | E-Mail id (If available) | |
14. This order is subject to the petitioners' complying with the following terms. The petitioners shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioners shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the

case or dissuade them from disclosing such facts to the Police or the Court.

15. **The petitioners are directed to join the investigation as and when called by the Investigator.** The petitioners shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioners shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioners shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

16. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioners notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

17. This bail is conditional, and the foundational condition is that if the petitioners indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

18. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

19. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioners can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

20. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

19.12. 2024
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Whether speaking/reasoned: Yes
Whether reportable: No.