

CRM-M- 64754-2023	Neutral Citation No. 2024:PHHC:031531
CRM-M- 64585-2023	Neutral Citation No. 2024:PHHC:031532
CRM-M- 62534-2023	Neutral Citation No. 2024:PHHC:031536
CRM-M- 5476-2024	Neutral Citation No. 2024:PHHC:031538

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Reserved on: February 28, 2024
Date of Decision: March 05, 2024

I.		CRM-M-64754-2023
Abdul Gufar and others		...Petitioners
	Versus	
State of Punjab		...Respondent
II.		CRM-M-64585-2023
Saleem Khan and another		...Petitioners
	Versus	
State of Punjab		...Respondent
III.		CRM-M-62534-2023
Ali Hussain and another		...Petitioners
	Versus	
State of Punjab		...Respondent
IV.		CRM-M-5476-2024
Abdul Ltif		...Petitioners
	Versus	
State of Punjab		...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued By: - Mr. Manish Kumar Singla and
Ms. Shikha Singla and Mr. Dinesh Kumar and
Mr. Sohan Lal, Advocates for the petitioners.
Mr. Sahil R. Bakshi, AAG, Punjab.

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Mr. Navjot Singh, Advocate for the complainant.

DEEPAK GUPTA, J.

This order shall dispose of 04 petitions titled above, all filed under Section 438 Cr.P.C, as in all of them, petitioners pray for grant of anticipatory bail in case FIR No.109 dated 21.11.2023 under Sections 323, 324, 506, 148 and 149 of IPC (Sections 325, 307 and 201 of IPC added later on), registered at Police Station Khamano, District Fatehgarh Sahib.

2.1 The FIR was lodged on the statement of Bashir Mohd., resident of village Badesha Khurd, District Fatehgarh Sahib, as per which on 20.11.2023, Yasin S/o Shukardin & Imran S/o Ramjan were harvesting sugarcane, when his son Ramjan called him on phone informing about the fight, which was taking place with Ali Hussain and his sons. Complainant alongwith his uncle's son Yakub S/o Jamaldin reached the spot, where Ali Hussain S/o Karim Baksh (*petitioner No.1 in CRM-M-62534-2023*), Mohd. Rafiq (*petitioner No.2 in CRM-M-64585-2023*), Abdul Latif (*petitioner in CRM-M-5476-2024*), Abdul Gufar (*petitioner No.1 in CRM-M-64754-2023*), Abdul Sitar (*petitioner No.2 in CRM-M-64754-2023*), Mohd. Saleem S/o Barkat Ali (*petitioner No.1 in CRM-M-64585-2023*), Abdul Rakki S/o Ali Hassain, Aslam S/o Barkat Ali, Yaseen Khan S/o Krim Baksh (*petitioner No.2 in CRM-M-62534-2023*), Yunis Khan S/o Yasik (*petitioner No.3 in CRM-M-64754-2023*) were found present. Complainant's brother Yakub tried to pacify Ali Hussain and his sons, not to quarrel. The assailants were

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having *gandasis*, *dandas* and swords. It is alleged that Abdul Latif @ Piti gave *gandasa* blow on the left hand, head and right arm and left arm of Yakub and also on the head of Yaseen. It was alleged further that the assailants also inflicted injuries with their weapons on various parts of the body of Yaseen S/o Shukardin, Ramjan and Fariyad Ali, besides Imran S/o Ramjan. It was also disclosed by complainant Bashir Mohd. that they had also inflicted injuries to the abovesaid assailants. He also disclosed that cause of enmity was the previous quarrel between the parties. On raising hue and cry, people gathered at the spot and rescue act was done. The injured were taken to the hospital.

2.2 On the above statement of Bashir Mohd., initially FIR under Sections 323, 324, 506, 148 and 149 was registered.

3. A cross version vide DDR No.14 dated 22.11.2023 was registered against Mohd. Ramzan, Mohd. Rafeeq @ Feequ, Abdul Rehman @ Miyu, Abdul Minan, Mohd. Baseer, Abdul Ghani, Yaqoob Ali, Mohd. Rafi @ Raffu, Fariyad Ali, Barkat Ali and Mohd. Imran. As per this cross-version, Ramzan and Basheer had given 03 blows of *daha* on the head of Abdul Lateef; and others had given *danda* blows. 03 injuries were inflicted to Abdul Sitar on his head and left hand. Ramzan had given *kulhari* (axe) blow on the back of Mohd. Saleem, whereas Raffu had hit *danda* on his head. Fariyad had given *danda* blow on the head of Abdul Gufar and one

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danda blow on the left hand. Other persons from the complainant side also gave injuries to the accused as named in the FIR.

4. The status report as filed by the respondent-State would reveal that MLRs of all the injured from both the sides were collected. As per these MLRs, following persons were found to have sustained the number of injuries as mentioned against their names:-

Accused of the FIR (complainant party of DDR)-

- | | |
|----------------|-------------------|
| 1. Abdul Sitar | 02 injuries |
| 2. Abdul Gufar | 03 blunt injuries |
| 3. Abdul Latif | 06 blunt injuries |
| 4. Rafiq Mohd. | 02 injuries. |
| 5. Sitar Ali | 03 blunt injuries |

Accused in the DDR - (Complainant party in FIR)

- | | |
|------------------|-------------------|
| 1. Ramzan | 02 blunt injuries |
| 2. Yaseen | 01 injury |
| 3. Basheer Mohd. | 03 blunt injuries |
| 4. Fariyad Ali | 03 blunt injuries |
| 5. Yakoob Ali | 05 blunt injuries |
| 6. Imran | 03 injuries |

During investigation, statement of Yakoob Ali was recorded on 29.11.2023 and based thereon, Section 307 and 325 were added in the FIR case. Mohd. Aslam and Mohd. Azrail were arrested from time to time.

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5.1 It is contended on behalf of the petitioners by learned counsels that it is a case of version and cross-version, inasmuch as both the parties have sustained injuries. No specific role has been attributed to the petitioners; that it will a matter of trial, as to which of the party was aggressor. Learned counsel for the petitioners further contend that on earlier occasions, the complainant side had inflicted injuries to Yaseen Khan etc., but the matter was compromised on 23.11.2022 vide Annexure P-1. However, complainant side did not mend its ways and so an application dated 05.04.2023 was submitted to the police, but no action was taken except for the preventive actions under Section 107/151 Cr.P.C.

5.2 Learned counsel for the petitioners contend further that Section 325 and 307 have been added after 08 days of the occurrence, with due deliberation only to make the offence more complicated. It is also alleged that police is colluding with the complainant side and despite cross case registered against them, no action is being taken against them. Learned counsel also submit that the petitioners are ready to join the investigation and so, they be allowed anticipatory bail.

6. Strongly opposing the bail petitions, learned State counsel ably supported by learned counsel for the complainant contends that serious injuries have been caused by the petitioners attracting Sections 325 and 307 of IPC. Learned State counsel also submits that custodial

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interrogation of the petitioners will be required on account of gravity of the offence and that in case the petitioners are allowed anticipatory bail, they may not co-operate in the investigation. Prayer is made for rejecting the petitions.

7. I have considered submissions of both the sides and have appraised the record carefully.

8 It will not be out of place to mention that vide an order dated 13.12.2023 passed in CRM-M-62534-2023 titled "*Ali Hussain and another v. State of Punjab*", the two petitioners were allowed interim anticipatory bail, subject to the condition that they shall join the investigation. It was informed by learned State counsel that on the next date of hearing, i.e. 20.02.2024 the said petitioners, namely Ali Hussain and Yaseen Khan had since joined investigation.

9. However, on 21.12.2023, during the hearing of CRM-M-64585-2023, it was alleged by learned counsel for the complainant that interim anticipatory bail had been allowed to co-accused due to mis-stating of the facts, inasmuch as 06 persons had sustained as many as 40 injuries. The similar contention was raised on 22.12.2023 during the hearing of CRM-M-64754-2023 titled as "*Abdul Gufar and others v. State of Punjab*".

10. As the status report filed by the respondent-State would

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reveal that both the sides have suffered numerous injuries. 06 persons from the complainant side have suffered as many as 17 injuries; whereas 05 persons from the side of petitioners have sustained as many as 16 injuries. In the FIR itself, it is clearly mentioned by complainant - Bashir Mohd. that they had also caused injuries to the assailants. It will be a matter of trial as to which of the party was aggressor. Simply because the injuries suffered to the complainant side of the FIR have also attracted Sections 307 and 325 IPC, cannot be a reason to decline anticipatory bail, having noticed the aforesaid facts that both the parties have suffered injuries and it is not clear as to which of the party was aggressor. Even the status report filed by the respondent-State is silent upon this aspect.

11. Having regard to aforesaid facts and circumstances, but without commenting anything further on the merits of the case, all the aforesaid four petitions are allowed.

12. The interim order dated 13.12.2023 passed in CRM-M-62534-2023, vide which petitioners, namely, Ali Hussain and Yaseen Khan, were granted interim anticipatory bail, is hereby made absolute. However, they shall continue to join investigation, if and so required by the Investigating Officer.

13. In the event of arrest the petitioner (s) in CRM-M-64754-2023, CRM-M-64585-2023 and CRM-M-5476-2023, they shall be

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released on interim bail on their furnishing personal/surety bonds to the satisfaction of the Arresting Officer/Investigating Officer, subject to the condition that they shall join the investigation, as and when required by the Investigating Officer. They shall also abide by conditions as envisaged under Section 438(2) Cr.P.C.

Photocopy of this order be placed on the connected case files.

March 05, 2024	(DEEPAK GUPTA)
Sarita	JUDGE

Whether reasoned/speaking:	Yes
Whether reportable:	Yes