HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Criminal Miscellaneous Bail Application No. 14667/2024

1. Krishan Kumar S/o Vinod Kumar, Aged About 22 Years, R/o Pahadsar, Presently Changoi, Ps Taranagar, Dist. Churu. (Lodged In Sub Jail Bhadra)
2. Naresh Kumar S/o Pahalwan, Aged About 21 Years, R/o Kalana, Ps Bhadra, Dist. Hanumangarh. (Lodged In Sub Jail, Bhadra)

----Petitioners

Versus

State Of Rajasthan, Through Pp

----Respondent

Connected With

S.B. Criminal Miscellaneous Bail Application No. 13226/2024

Govind Kaushik S/o Shri Narendra, Aged About 30 Years, R/o Ward No 30 Nandi Chowk Bhadra, Dist Hanumangarh(Raj). (Lodged In Sub Jail ,bhadra)

----Petitioner

Versus

State Of Rajasthan, Through Pp

----Respondent

S.B. Criminal Miscellaneous Bail Application No. 13773/2024

1. Jakir Khan S/o Babu Khan, Aged About 31 Years, R/o W.no. 9, Raslana, Tehsil Bhadra, Dist Hanumangarh. (Prsently Lodged At Sub Jail , Bhadra Dist, Hanumangarh)
2. Saddam Hussain S/o Munshi Khan, Aged About 32 Years, R/o W.no. 9, Raslana, Tehsil Bhadra, Dist Hanumangarh. (Prsently Lodged At Sub Jail , Bhadra Dist, Hanumangarh)

----Petitioners

Versus

State Of Rajasthan, Through Pp

----Respondent

S.B. Criminal Miscellaneous Bail Application No. 15680/2024

Shankar S/o Vasudev, Aged About 24 Years, R/o Bhadra, P.s Bhadra, Bhadra, Dist Hanumangarh,(Raj.) (At Present Lodged In Sub Jail Bhaddra, Dist Hanumangarh)

----Petitioner

Versus

State Of Rajasthan, Through Pp

----Respondent

S.B. Criminal Miscellaneous Bail Application No. 15712/2024

Rakesh Kumar S/o Shishpal, Aged About 32 Years, R/o W.no. 24 Ps Bhadra, Dist Hanumangarh (Raj) (At Present Lodged In Sub Jail Bhadra , Dist Hanumangarh)

----Petitioner

Versus

State Of Rajasthan, Through Pp

----Respondent

For Petitioner(s)	:	Mr. Manjeet Godara Mr. Tirupati Chandra with Mr. Abhishek Agarwal Mr. R.S. Choudhary with Mr. Rakesh Dhaka Mr. Manoj Kumar
For Respondent(s)	:	Mr. Hathi Singh Jodha, PP Mr. Moti Singh and Mr. Jogendra Singh for complainant

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HON'BLE MR. JUSTICE KULDEEP MATHUR

Order

22/01/2025

1. These applications for bail under Section 439 Cr.P.C. (483 BNSS) have been filed by the petitioners who have been arrested in connection with F.I.R. No.325/2024, registered at Police Station Bhadra, District Hanumangarh for offences under Sections 307, 341, 323 & 143 of IPC.

2. As per the prosecution, the complainant- Pawan Kumar while undergoing treatment at Survodaya Hospital, Hisar informed that about 6-7 years ago, one Suresh Sangwan had filed a criminal

case of kidnapping against Sonu Negi and others. He (Pawan Kumar) was an eye witness of the incident and Sonu Negi and his allies were pressurizing him not to give any statement against them in the Court, however, he appeared before the competent Criminal Court and gave testimony against Sonu Negi and his allies. Thereafter, on 28.06.2024, at about 6:30-7:00 PM, when he was returning to his house from fields on a motor bike with one Vinod Kumar, the accused persons, that is, Sonu Negi, Mukesh, Dinesh, Anil Nehra, Rajesh Dhadak, Lucky Sindhi, Shankar Sindhi, Raees Khan, Suddam, Zakir, Naresh @ Pehlwan, Govind Kaushik and Rakesh @ Kalu with a few unidentified persons came heavily laced with blunt and sharp weapons in three vehicles, i.e., Bolero Camper, Scorpio and Maruti Swift cars and attacked them with a view to take revenge from him. In the alleged incident which occurred on 28.06.2024, as per Pawan Kumar the above named accused persons had mercilessly beaten him and Vinod Kumar.

3. As per the prosecution, in the aforesaid incident, Pawan Kumar has sustained five simple injuries, whereas, Vinod Kumar has sustained six injuries out of which injuries No.4, 5 & 6 are though grievous in nature but not dangerous to life, whereas, the injury No.1 which has been inflicted upon his head is grievous in nature and dangerous to life.

4. Heard learned counsel for the parties at Bar. Perused the material available on record.

5. Learned counsel for the petitioners vehemently contended that the petitioners have been falsely implicated in the present case. Drawing attention of the Court towards the challan papers and injury report of the injured persons namely Pawan Kumar and

Vinod, learned counsel contended that this is a case of over implication and an exaggerated version of the incident has been put forth by the complainant- Pawan Kumar, owing to some previous animocity/rivalry between the parties. Learned counsel for the petitioners submitted that as per prosecution, blunt weapon (lathi) has been recovered from petitioners-Govind Kaushik and Naresh Kumar @ Pehalwan only. No blunt or sharp weapon has been recovered from other petitioners. Further, an eye witness of the alleged incident which occurred on 28.06.2024 namely Prabhuram (PW-2) during his Court's statements has not supported the prosecution story and has turned hostile.

6. Lastly, learned counsel for the petitioners jointly submitted that the petitioners are in judicial custody; investigation against the petitioners has already been completed; the statements of independent witness (eye witness) namely Prabhuram have already been recorded before the competent Criminal Court; the trial against the petitioners is not likely to be concluded in near future, therefore, no fruitful purpose by keeping the petitioners behind the bars for an indefinite period. On these grounds, learned counsel for the petitioners implored the Court to enlarge the petitioners on bail.

7. It is pertinent to note here that learned counsel appearing for petitioner- Krishan Kumar in addition to the aforementioned arguments has made an additional argument that the petitioner-Krishan Kumar has not been named in the FIR and, therefore, he has been implicated in the present case solely on the basis of suspicion without there being any direct/circumstantial evidence

available on record indicating his involvement in the commission of alleged crime.

8. *Per Contra*, learned Public Prosecutor and learned counsel for the complainant have vehemently opposed the bail applications. Learned counsel submitted that all the petitioners are habitual offenders and, therefore, in case they are enlarged on bail by this Court, there is an apprehension that they would influence the material prosecution witnesses of the case and they may even try to cause harm to the injured persons. It was thus prayed that looking the seriousness of the allegations against present petitioner, the present bail applications may be rejected.

9. Having considered the rival submissions, facts and circumstances of the case and having perused the FIR, so also the statements of injured persons, this Court *prima facie* finds that as per the prosecution, owing to some previous animosity between the parties, on the date of alleged incident, the petitioners in a predetermined manner had attacked the injured persons namely Pawan Kumar and Vinod Kumar with blunt weapons and caused them multiple injuries. All the petitioners except Krishan Kumar have been named in the FIR. This Court further *prima facie* find that though no blunt and sharp weapons have been recovered at the instance of Zakir Khan and Saddam but as per the prosecution they had beaten the injured persons with kicks and fists.

10. On a close scrutiny of the case file, this Court *prima facie* finds that as per prosecution the petitioner Krishan Kumar (not named in the FIR) at the time of alleged incident was sitting on the wheel of the Bolero vehicle bearing registration No. RJ-10-GB-9568 and the said vehicle has also been recovered at his instance

only. This Court further *prima facie* finds that presence of all the petitioners at the place of incident has not only been established but it has also been *prima facie* established that they had actively participated in the commission of alleged crime.

11. In the opinion of this Court looking to the nature of allegations against the present petitioners, so also the severity of the punishment, it would not been safe for this Court to consider the individual roles of the petitioners in the commission of alleged crime, until the statements of the injured persons namely Pawan Kumar and Vinod are recorded before competent Criminal Court.

12. In view of discussion made above and after considering the seriousness of accusations and brutality of alleged crime, this Court is not inclined to enlarge the petitioners on bail at this stage. Therefore, the instant applications for bail are hereby rejected. However, the petitioners shall be at liberty to file fresh bail application(s) after recording of the statements of injured persons namely Pawan Kumar and Vinod before the competent Criminal Court. It is expected from the competent Criminal Court that the statements of the injured persons will be recorded on priority basis.

13. It is however, made clear that findings recorded/observations made above are for limited purposes of adjudication of bail application. The trial Court shall not get prejudiced by the same.

(KULDEEP MATHUR),J

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