

2025:PHHC:015386



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

101

CRM M-5596 of 2025

Date of Decision: 31.01.2025

Rinku Kumar

...Petitioner

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Krishan Singh, Advocate, for the petitioner.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 438 of the Cr.P.C. with a prayer to grant pre-arrest bail to him in case FIR No.1053 dated 01.11.2024 registered under Sections 109, 115(2), 121 (1), 121 (2), 132 and 351 (2) of BNSS 2023 at Police Station City Yamuna Nagar, District Yamuna Nagar, Haryana (Annexure P-1).

2. The FIR in the present case was registered on the basis of the statement made by the Sub-Inspector Rajinder Singh and the same has been reproduce below:-

“Statement of SI Rajinder Singh No.144/A, Police Post Hamida Police City Yamuna Nagar, District Yamuna Nagar Mobile No.8708805373 stated that I am posted as Investigating Officer at Police Post Hamida and on 31.10.2024 I was on S.D.O Duty at Hamida Police Post. At about 11:35 PM, SI Gurdayal Singh, then in-charge of Police post Hamida, informed me on mobile that some people are creating ruckus and fighting in Gulab

Nagar Yamuna Nagar. On this information, I alongwith EHC Sanjeev Kumar No.53/YNR, SPO Virender Singh No.241, HGH Rameshwar No.1363 in the government vehicle bearing No. HR02GV9779 which was driven by Nishan Singh HKRN reached at Gulab Nagar Yamuna Nagar at about 11:45 PM, where he got down from the vehicle with his fellow employee and reached the street where some people were fighting and abusing each other. It was the festival of Deepawali and there was a fight between two parties over bursting crackers in the street. Tarun and Sanjay sons of Krishna Lal Prajapati resident of Gulabi Nagar Yamuna Nagar were bursting crackers with their friends in the street in front of the house of Ram Prakash son of Vijay Dhar resident of House No.40, Gulab Nagar, Yamuna Nagar. Ram Prakash and his sons Abhay and Ajay had forbidden Tarun and Sanjay from bursting crackers in the street in front of their house, on this matter both the parties started abusing each other, due to which a large crowd gathered in the street of Gulab Nagar. Tarun had called his friends All, Akbar, Sunny, Suraj and Karna Rana there, who threw bricks at each other, in which many people were injured on the spot. With the help of his employees, he tried to disperse the crowd gathered at the spot, EVR also standing there. A man named Rinku Kumar son of Shamlal under the influence of alcohol, started abusing the police party and was threatening to kill the police party. Efforts were made to pacify him, the public also tried a lot to make Rinku Kumar understand but Rinku Kumar tried to hit him with a plastic chair lying in the public. When he was talking to

the public, Rinku Kumar picked up the bricks lying in the street and started throwing them at him. One of the bricks hit his head and he fell in the street and his head was protected because of the turban he was wearing. Then another brick hit his right arm and injured his right arm and some bricks hit his left leg and other parts of the body. Many people were under the influence of alcohol. SI Gurdayal Singh Incharge Police Post Hamida reached on spot and they took me in the government vehicle and went to the hospital alongwith EHC Sanjeev Kumar No.53 and SPO Virender Singh No.241, where my treatment is going on. Rinku Kumar and others tried to kill me by throwing bricks on duty officer and they create hindrance in serving my duty. Strict legal action be taken against Rinku Kumar son of Sham Lal resident of Gulab Nagar, Yamuna Nagar. I have got recorded my statement at Civil Hospital, Yamuna Nagar. Statement is read over and same is correct. Sd/- Rajinder Singh Sd/-Gurdayal Singh Incharge, Police Post Hamida Police Station City Yamuna Nagar dated 01.11.2024”.

3. Learned counsel for the petitioner has vehemently argued that the complainant has concealed the genesis of the occurrence and the FIR is based on wrong and twisted facts. He further contends that it has been falsely alleged that the petitioner had picked up bricks lying in the street and started throwing those at the police officials. In fact, the complainant had lodged the present FIR against the petitioner and other accused, as the police officials had caused the injuries to the petitioner and other persons. He refers to the medical record

(Annexure P-3) to contend that the petitioner had suffered an injury on his right eye and was under treatment for a long period. Even, the wife of the petitioner made a complaint (Annexure P-4) that the complainant and other police officials (Annexure P-4) on 01.11.2024 but no action was taken against them. Later on, a representation (Annexure P-5) was also submitted to the Superintendent of Police, District Yamuna Nagar, for taking action against the complainant and other police officials but instead of taking action against the police officials, now the petitioner is sought to be arrested in the present case. He further contends that the FIR has been got registered by the complainant, just to save his own skin, who had beaten the petitioner and caused injuries on his person.

4. Notice of motion.

5. On the asking of Court, Mr. Rajinder Kumar Banku, DAG, Haryana accepts notice on behalf of respondent-State.

6. Learned State counsel submits that specific allegations have been levelled against the present petitioner. In fact, the petitioner was under the influence of liquor and had attacked the police party. He was abusing the police and also extended threat to kill them when the police officials tried to make him understand, he picked a plastic chair and attacked the police officials. Thereafter, he picked the bricks from the street and started pelting brick bats on the police officials. Due to this, the complainant, who is a police official, had suffered four injuries on his person. He further contends that keeping in view

the gravity of the offence, the present petition deserves to be dismissed by this Court.

7. I have heard learned counsel for the parties and perused the record.

8. From the FIR (Annexure P-1), it is apparent that the petitioner has been specifically named as an accused, who had attacked the police party, who had gone to the spot after getting an information regarding fight between two parties. In the present case, the complainant has suffered 04 injuries on his person. It appears that the petitioner also suffered an injury on his right eye, as there was a fight between two groups, where the accused from both the sides were beating up each other. Thus, in the present case, the petitioner has been nominated as accused as he had caused injuries to the police officials. Still further, the powers under Section 438 Cr.P.C. are extraordinary in nature and have to be exercised sparingly, just to save the innocent persons from false and vexatious prosecution. While granting the concession of anticipatory bail, the Court should bear in mind the nature and gravity of the accusation, possibility of applicant's fleeing from justice and chances of tampering with the prosecution evidence etc. Even, such concession cannot be granted to persons, who are accused of serious crime or of taking the law in their own hands. In the present case, not only the allegations against the petitioner are grave but his custodial interrogation is imperative to identify the other perpetrators of the crime, who had opened assault

on the police officials. Thus, finding no merit, the present petition is ordered to be dismissed.

31.01.2025
amit rana

(N.S.SHEKHAWAT)
JUDGE

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