


**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Miscellaneous Bail Application No. 7526/2024

1. Hafeez S/o Shri Taje Khan, Aged About 23 Years, R/o Dabalapaar, P.S. Ramgarh, District Jaisalmer, Rajasthan (At Present Lodged at Dist. Jail, Jaisalmer)
2. Dilbar Khan S/o Shri Alaf Khan, Aged About 26 Years, R/o Dabalapaar, P.S. Ramgarh, Dist. Jaisalmer, Rajasthan (At Present Lodged at Dist. Jail, Jaisalmer)
3. Pathan Khan S/o Shri Yaru Khan, Aged About 33 Years, R/o Dabalapaar, P.S. Ramgarh, Dist. Jaisalmer, Rajasthan (At Present Lodged at Dist. Jail, Jaisalmer)
4. Gani Khan S/o Shri Lakhe Khan, Aged About 26 Years, R/o Dabalapaar, P.S. Ramgarh, Dist. Jaisalmer, Rajasthan (At Present Lodged at Dist. Jail, Jaisalmer)

-----Petitioners

Versus

State Of Rajasthan, Through Pp

-----Respondent

For Petitioner(s)	:	Mr. Naman Mohnot
For Respondent(s)	:	Mr. Ramesh Dewasi, PP with Om Prakash Choudhary Mr. Dinesh Kumar Godar for complainant

HON'BLE MR. JUSTICE RAJENDRA PRAKASH SONI

Order

Reportable

18/09/2024

1. Petitioners are lugged and locked in F.I.R No.61/2024 of Police Station Sankada District Jaisalmer, for the offence under Section(s) 326, 307, 341, 342, 323, 147, 149 of the I.P.C. He has filed this application for restoration of liberty under section 439 of the Code of Criminal Procedure, 1973 (Section 483 of new Code).

2. I may briefly refer to the relevant aspects of the case of prosecution, as emerging from the F.I.R. allegations which are that complainant Aaban Khan gave a verbal report to the police while receiving treatment in a hospital. According to the facts of the case, complainant was married to one Nazira, who is sister of a co-accused Hayat Khan. Due to a rift, his wife Nazira has been living in her parental home. Similarly, sister of complainant namely Saurat was also married to co-accused Hayat Khan but due to a dispute, she was also abandoned by her husband and is now living with the complainant. This has caused tension between the two families regarding the marital issues of the complainant's sister and the accused's sister. On 27.05.2024, the complainant and his uncle Doshe Khan were traveling in a vehicle, when the accused Hayat Khan along with 10-12 companions as well as family members came in two vehicles. They first collided with the complainant's vehicle and then co-accused Hayat Khan allegedly attacked the complainant by cutting his nose with a sharp edged knife. During the incident, the complainant was held by Pathan Khan, Nasir Khan, Ghani Khan, and Dilbar Khan.

3. Shri Naman Mohnot, learned counsel representing the petitioners vehemently urged that no recovery is pending from any of the petitioners. The petitioners have been falsely implicated in this case. The victim Aaban Khan has sustained only one injury, which is neither a fracture nor supported by any expert opinion indicating that the injury was life-threatening. Therefore,

considering the facts and circumstances the petitioner may be released on bail.

4. From the other side, learned Public Prosecutor for the State assisted by Mr. Dinesh Godara has strongly objected the submissions made by learned counsel for the applicant and submitted that petitioners have intentionally disfigured the face of the injured person. There is overwhelming evidence adduced on record which would prima-facie point towards the guilt of the applicant. He thus, prayed that in the facts of the present case, it is expedient that accused be kept in the custody.

5. I have given my thoughtful consideration to the arguments advanced by learned counsel for the parties and have perused the record carefully.

6. Having given anxious consideration to the rival submissions and having examined the record with reference to the law applicable, I am clearly of the view that complainant Aaban Khan and one of the co-accused Hayat Khan are brothers-in-law of each other, as they each have married the other's sister. Due to dispute between them regarding their sisters' marital life, sisters of both complainant and co-accused Hayat Khan are living in their respective maternal homes. During investigation, it has come to light that the complainant Aaban Khan has fixed his marriage with an another girl without divorcing accused Hayat Khan's sister Nazira. In view of the above enmity and rivalry, Hayat Khan along with petitioners and his other associates, took revenge by physically cutting the nose of the complainant.

7. As far as the manner of committing the crime is concerned, the petitioners have crossed all limits of cruelty. As per the statements of the injured Aaban Khan, he was held by accused Pathan Khan, Nasir Khan, Ghani Khan, Dilbar Khan. Pathan Khan held his nose and Hayat Khan cut his nose with a sharp knife.

8. In view of this Court, nose is a crucial part of the human body with both functional and symbolic importance. It also holds social and cultural significance, being a prominent feature of the face that contributes to identity, appearance and self-esteem. Cutting of nose would have permanent consequences such as disfigurement. The disfigurement caused by removing someone's nose can lead to significant emotional distress and social stigma. Historically, in Indian culture, cutting off a person's nose is a form of punishment or revenge intended to humiliate and socially stigmatize the victim. This cultural and symbolic significance of disfigurement makes the crime even more severe. Such an act is a serious crime due to its physical, emotional and social implications.

9. In such facts and circumstances, the arguments of learned counsel for the petitioner that the injury sustained by the victim is not a fracture or is not fatal to his life is ridiculous.

10. In view of the enormous *prima facie* material placed on record in respect of the applicant, the allegations leveled against the petitioner, I am of the considered view that looking to the nature and gravity of the accusation in the instant case, the role attributed to the petitioner, the antecedents of the applicant and

the case set up against petitioner in its entirety, the petitioner is not found entitled to be released on bail prior to recording of statements of both the injured persons.

11. As a consequence of the above discussion, this Court is not inclined to extend indulgence of bail to the petitioners under Section 439 Cr.P.C. and hence, the instant Bail Application stands dismissed as being devoid of merit. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

(RAJENDRA PRAKASH SONI),J

Anshul/-