

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No. M-24811 of 2016

Date of Decision: 02.09.2016

Mandeep

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Kulvir Narwal, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

HARI PAL VERMA J.(Oral)

Prayer in the present petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner in case FIR No.117 dated 22.2.2016 under Sections 148, 149, 186, 188, 307, 332, 353, 124-A of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 registered at Police Station Jhajjar.

The aforesaid FIR was registered on the facts that on 20.2.2016, a crowd of agitationists for Jat reservation committed several acts of destruction of public property, burning of government buildings, banks and other offices in Jhajjar city. In execution of preventive measures, on 21.2.2016, when Sub Inspector Manesh Kumari, complainant, was heading the police party, she received an information that a crowd of about

400-500 persons under the garb of agitation for Jat reservation suddenly attacked the Chhawni Mohalla of Jhajjar which is inhabited by Saini community. The agitationists put several houses on fire and after destroying the houses, they also committed the murder of one person. The members of unlawful assembly were armed with jellies, gandasas, farsas and other deadly weapons and firearms. As per the complainant, at around 3-15 p.m., when Sub Inspector Manesh Kumari along with her staff and officers marched from Silani gate to Kuldeep Chowk, then a crowd of around 2700/2800 persons came from the front side. They were exhorting the crowd to loot and destroy everything. The Duty Magistrate Shri Naresh Narwal, who was posted as Addl. Deputy Commissioner, Jhajjar, also cautioned the crowd not to indulge in violent acts and rather, warned them to disperse away. However, when the crowd did not disperse, the Duty Magistrate ordered to use tear gas. But still, the crowd did not disperse, compelling the Duty Magistrate to order *lathi* charge to control the crowd. According to the complainant, the crowd became more furious and the arsonists, who were otherwise armed with illegal weapons, fired upon the vehicle of DSP Rajiv Kumar, City Jhajjar with an intention to kill him and one shot pierced the car of the said DSP. The DSP and the staff had a narrow escape. Still, the arsonists continued to throw stones on the police force and surrounded them from three sides and fired straight shots from their firearms on the police. The complaint further suggests that in this incident, Constable Rajesh, CIA Jhajjar, Constable Jag Parvesh and other police officials received injuries. Thereafter, the police opened fire in air, but the arsonists kept on firing straight shots on the police officials with an

intention to kill them and one of the shots fired upon the complainant barely missed her head.

As per the complainant, the police and paramilitary forces, in their own defence and in order to secure public life and property, fired upon the arsonists to control the crowd. It is only, thereafter, the members of the unlawful assembly started running hither and thither and in this process, some of the arsonists were apprehended from the spot by the police and weapons of offence were also recovered from them.

Learned counsel for the petitioner has argued that apart from the fact that the petitioner has falsely been implicated in the case, no injury has been attributed to him. He further submitted that in the instant case, the petitioner was not a member of the unlawful assembly. He being 130 kgs. of weight, it was practically not possible for him to run.

On the other hand, learned State counsel has argued that in the case in hand, three police personnel have been seriously injured and the petitioner was apprehended at the spot. He was an active participant in the occurrence. He was part of the crowd which not only threw stones on the police force but also fired shots with intention to kill the members of police and paramilitary forces. Therefore, the plea that the petitioner was of 130 kgs. of weight and can hardly run, is not acceptable.

I have heard learned counsel for the parties.

The allegation against the petitioner is that he was part of the crowd of arsonists who despite proclamation of prohibitory orders under Section 144 CrPC and clamping of curfew, joined the unlawful assembly which was armed with deadly weapons. The said crowd not only looted

the public property but also attacked the State police and the paramilitary forces which were specifically deployed to maintain law and order situation. They went to the extent of firing at the government vehicle of the DSP Jhajjar City who also had a narrow escape. The name of the petitioner has duly been surfaced during the investigation. The other police officials namely Constable Rajesh, CIA Staff Jhajjar, Constable Jag Parvesh and other police personnel received injuries at the hands of arsonists. Some of the miscreants who were amongst the gathering were caught by the DSP Balbir Singh and members of his force, CIA Staff Jhajjar, SIT Staff Jhajjar and were handed over to the complainant. The petitioner was one of them who was apprehended at the spot and thus, he was a member of the unlawful assembly. Therefore, the allegations against the petitioner are serious, as he had actively participated in the occurrence and violated the proclamation of prohibitory orders under Section 144 CrPC and clamping of curfew.

Therefore, no case for bail is made out.

The present petition is dismissed.

September 02, 2016
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No