

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

SMRITI
2017-16-11-12
Attest to the accuracy and
integrity of this document

CRM-M-22454-2018

Date of Decision: 15.11.2018

Ashok @ Gabbar

...Petitioner

vs.

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Abhimanyu Singh, Advocate for
Mr. Nafeesh Ahmed, Advocate, for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

Mr. Manish Soni, Advocate, for the complainant.

ARVIND SINGH SANGWAN,J

Prayer in this petition is for grant of regular bail to the petitioner in case FIR No. 94 dated 19.02.2017 under Sections 307/34/120-B IPC and 25 of the Arms Act, registered at Police Station Sohna, District Gurugram, Haryana.

Counsel for the petitioner submits that the petitioner is in judicial custody since 19.02.2017 and subsequent to his arrest, he was involved two other FIRs under the provisions of the Arms Act when he was lodged in the judicial custody. He is on bail in aforesaid FIRs.

Counsel for the petitioner submits that as per the allegations in the FIR, on 19.02.2017 complainant-Raghuraj was standing at bus-stand and was feeding the dogs. Some other persons were also standing at the bus-stand. In the meantime, two motorcycles suddenly came at the spot and the persons, who were riding two motorcycles, were Ashok @ Gabbar (petitioner), Mahabir, Vedpal @ Kanu, Shamsher @ Dholu and one Sachin Lohar alongwith other. All these persons started firing upon him. When he raised a voice, his father Ghanshyam, who was also present at the spot, came

and tried to give *lathi* blow on the petitioner in self defence and, thereafter, the accused persons ran away from the spot. Counsel for the petitioner further submits that thereafter the police got recorded the disclosure statement of the petitioner in which it has come that the first bullet was fired upon Raghuraj by co-accused Parveen @ Tapli and the second bullet was fired by the petitioner.

Learned counsel further submits that the complainant has already been examined and he appeared as PW-6 and has stated that two bikes came from behind and the riders straight way fired upon him which hit on his back and when he turned back, he saw Ashok @ Gabbar having gun in his hand and smoke was coming out of the barrel. Later on, he came to know that Parveen had fired upon him and the bullet hit him on his thigh near his private part. Counsel further submits that, in cross-examination, this witness has admitted that there is a civil litigation pending between his father and accused. The petitioner, filed a civil suit and in the civil suit, there was a restrain order against them, in which they were restrained from interfering in the peaceful possession of the disputed land and on the application of co-accused-Mahabir, even the police help was provided against them.

Counsel for the petitioner further submits that it is to be seen during the course of trial whether the motive attributed to the petitioner for causing injuries to the complainant is on account of civil litigation or for the same civil dispute, it is to involve him falsely as there was injunction in his favour.

Learned counsel further submits that since the petitioner is in judicial custody for the last 01 year, 06 months and 01 day and out of total

27 prosecution witnesses, 14 have been examined and since the complainant has been examined, there was no possibility of closing the prosecution evidence. Learned counsel further submits that 05 of the accused have already been granted concession of regular bail and only the petitioner and co-accused-Parveen @ Tapli are in judicial custody.

The learned State counsel, on instructions from Investigating Officer, and assisted by learned counsel for the complainant, has, however, opposed the prayer for bail on the ground that the petitioner was named in the FIR. There was a direct motive attributed against him that on account of his civil litigation, he has fired upon the complainant and caused grievance injuries.

Learned counsel for the complainant has further argued that even as per FSL report, the version of the prosecution is duly supported and recovery of weapon was effected from the petitioner.

Without commenting anything upon the merits of the case, considering the fact that there is a civil litigation pending between the parties and injunction was granted against the complainant party; motive can be double folded which is to be decided during the course of trial whether the petitioner caused injuries on account of civil litigation or his implication is false for the same reason; considering that the petitioner is in judicial custody for the last about 01 year, 06 months and 01 day, and also considering the fact that the complainant stands examined, the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate concerned.

15.11.2018
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : Yes/No.
Whether Reportable : Yes/No