

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-33175 of 2017

Date of Decision: February 23, 2018

Javed

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Pradeep Virk, Advocate
for the petitioner

Mr. Munish Sharma, AAG Haryana

Mr. Amit Jain, Advocate
for the complainant

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Sudhir Mittal, J. (Oral)

The petitioner is an accused in FIR No. 471 dated 03.09.2015, registered at Police Station Punhana, under Sections 148, 149, 307, 323, 452, 302 IPC and Sections 25, 54, 59 of the Arms Act, 1959 and seeks the concession of regular bail through this petition.

2. The FIR is registered on the basis of complaint of one Nijar Khan son of Sahib Khan. He had stated that he had gone to Alwar at 9.00 a.m. on 02.09.2015 alongwith his wife to get medicines. While he was returning, at about 3.30/4.00 p.m., his daughter informed him on telephone that Imtiyaz (son of the complainant) was studying on the roof of their house where he was hit by a bullet fired by Talib and his supporters. He reached GH Mandi Khera and then he was told by his brother Aash Mohd. and Ex. Sarpanch Usman Khan that on 01.09.2015 there had been an altercation in the Mini Secretariat between Usman and Talib and today again a dispute arose on account of debt of Rs. 2500/- owed by Javed son of Akhtar due to which supporters of Talib started pelting stones on the supporters of Usman and Talib fired one shot and all these persons climbed on the roof of Jagdish.

Women were supplying the stones and some eight to ten shots were fired by unlicensed weapons and one bullet fired by Talib hit Imtayaz. Manisha, daughter of late Aslam aged about six years was injured in the dispute and was found in the house of Akhtar son of Hussain Khan. Rheesan wife of Akhtar informed mother of Asgar that dead body of Manisha was lying in their house and Asgar brought her body from the house of Akhtar. There is political enmity between the parties and Talib, Sarpanch and his supporters had killed his son Imtiyaz. Other men and women were also involved in the stone pelting.

3. Initially, investigation was conducted by the local police and the petitioner was not challaned. Subsequently, the investigation was entrusted to the Crime Branch and an SIT was formed. The SIT submitted a challan against the petitioner also.

4. Learned counsel for the petitioner contends that the petitioner has been in custody since 01.08.2016 and in the initial challan presented by the local police his name was not mentioned. He is facing trial on account of supplementary challan filed by the SIT constituted by the Crime Branch. He also placed reliance upon affidavit dated 12.1.2016 submitted by the complainant before the police in which the petitioner has not been named. It is further submitted that all the witnesses of the prosecution have already been examined and only formal witnesses remain to be examined. Completion of the trial will take some time because accused have yet to start leading their evidence.

5. On the other hand learned State counsel assisted by learned counsel for the complainant submits that the petitioner has been named in the FIR and that PW3 Usman has stated during the course of the trial that the petitioner was present inside the house of Akhtar from which place the dead body of Manisha had been recovered. Reliance has also been placed on statement of PW-7 Aash Mohd, who

dead body of Manisha was recovered. The disclosure of Iqbal has also been referred to in which it is recorded that he and Javed had picked up Manisha from the Chowk. Iqbal caught hold of her hands and Javed caught hold of her legs and brought her to Javed's house. Iqbal struck Manisha on the head with stick resulting in her death. This statement is relied upon for the purpose of corroboration of the medical evidence wherein it is mentioned that the injury caused on the head with a blunt weapon resulted in the death of Manisha. Thus, the submission is that in the present state of evidence, the petitioner appears to be one of the main accused and therefore, does not deserve the concession of regular bail.

6. I have carefully heard counsel for the parties and with their assistance gone through the record.

7. The petitioner is accused of killing a small girl of six years in a brutal manner. He is named in the FIR and it is also mentioned therein that the dead body of Manisha was recovered from the house of Akhtar who is father of Javed. This statement has been corroborated by subsequent investigation as well as by the statement of PW-3 Usman as well as PW-7 Aash Mohd. Therefore, the petitioner does not deserve the concession of regular bail even though he has been in custody since 01.08.2016. The petition is dismissed at this stage. The petitioner would, however, be at liberty to file a fresh petition in case the evidence produced hereinafter supports his case.

February 23, 2018

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No