

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-18302 of 2019
Date of Decision: 07.11.2019

Vikaram @ Vikku

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Aditya Sanghi, Advocate
for the petitioner.

Mr. Munish Sharma, AAG Haryana.

Mr. Manish Mehta, Advocate
for the complainant.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.622 dated 25.10.2018 registered for offences punishable under Sections 323, 307, 302 506 read with Section 34 of Indian Penal Code (for short, "IPC") and 25 of the Arms Act, at Police Station Mahendergarh.

Heard.

FIR was registered on the statement of Kirori Mal, wherein he stated that Bhim Singh and his nephew (sister's son), Vikaram @ Vikku (petitioner) and his wife Bimla Devi were breaking the wall towards backside of the house of complainant to take out a door. Complainant and his sister-in-law, namely, Resham Devi stopped them, which resulted in a scuffle. The accused started beating complainant and his sister-in-law.

When complainant asked Bhim Singh to take his wife and nephew home, he

went inside his house; took out a gun and fired at sister-in-law of

complainant, which, however, did not hit her. When Bhim Singh, Bimla Devi and petitioner-Vikaram @ Vikku were going back, they found Satyavir on the way and on *lalkara* raised by Bimla Devi, Bhim Singh fired at Satyavir. The bullet hit his head. When complainant tried to catch Bhim Singh, he pointed the gun towards them and threatened to kill them. Satyavir fell on the ground and was taken to hospital at Mahendergarh from where he was referred to Rohtak. On the way he was declared dead by doctor at Pushpanjali Hospital, Rewari.

Learned counsel for the petitioner submits that the dispute had taken place over the construction being raised by co-accused, Bhim Singh. Though, presence of petitioner has been alleged but he was neither armed with any weapon nor has been attributed any role in the occurrence. *Prima facie* there was no meeting of mind, when Bhim Singh brought the gun from his house all of sudden and out of anger fired at Satyavir.

Learned State counsel assisted by learned counsel for the complainant argues that petitioner was also present at the time of occurrence and the offence was committed in connivance with common intention of all the three accused.

As per allegations in the FIR, exchange of hot words had taken place due to act of co-accused, Bhim Singh in carving out a door towards the house of complainant by breaking the back wall of the house. As per allegations in the FIR, Bhim Singh had gone inside house and brought his gun and firstly fired at Resham Devi and then at Satyavir. The petitioner has not been attributed any *lalkara*. However, his presence at the spot is made out. It will be an arguable point before the trial Court as to whether petitioner had common intention with other co-accused in this case.

In view of above facts but without expressing any opinion on merits of the case and keeping in view the fact that after completion of investigation, challan has been presented in Court and conclusion of trial will take considerably long time, the present petition is allowed. Petitioner- Vikaram @ Vikku is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- (a) The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- (b) In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- (c) He shall not leave the country without the previous permission of the Court.

November 07, 2019
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No