

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CRM-M-21919-2019
Reserved on : 01.07.2019
Date of pronouncement : 02.07.2019

Manoj

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. R. S. Rai, Senior Advocate with
Mr. Manish Soni, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana
assisted by SI Rattan Singh.

Mr. Saleem Ahmed, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J.

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 71 dated 12.03.2019, registered under Sections 147, 148, 149, 323, 325, 307, 506 of the IPC and Section 25 of the Arms Act, 1959 at Police Station Manesar, District Gurugram.

Learned senior counsel for the petitioner has argued that prior to registration of the present FIR No. 71 dated 12.03.2019, the complainant party has attacked the petitioner on an earlier occasion, on 04.03.2019 and again, on 11.03.2019, at about 08:30 PM, more than 30 persons, carrying weapons like axe (Farsa), *Lathi*, *Danda* etc., attacked the house of the

petitioner and caused life threatening/grievous injuries to 12 persons from the petitioner's side.

Learned senior counsel has further argued that in this regard, FIR No. 72 dated 12.03.2019 was registered against the complainant's side under Sections 147, 148, 323, 506 of the IPC and Sections 149, 324 and 325 of the IPC were added later on.

Learned senior counsel has referred to MLR of the petitioner, wherein the following injuries have been reported:

- Traumatic brain injury
- Partial depressed fracture right parietal bone
- Brain concussion
- Soft tissue injuries
- Gun shot injury right calf

Learned senior counsel has further argued that despite the fact that the petitioner had suffered fracture of right parietal bone with partial depression and remained admitted in the hospital from 12.03.2019 till 22.03.2019 when he was arrested from the hospital, the police has not added Section 307 IPC. It is also submitted that though the complainant's party, in this FIR, has unlawfully and forcibly entered into the house of the petitioner and there are allegations of outraging the modesty of women, the police has also not added offence invoking Sections 452 and 354 IPC as well.

Learned senior counsel has further submitted that in the incident, a group of more than 30 persons, carrying deadly weapons, had attacked the house of the petitioner and thereafter, they have caused injuries to the petitioner and in self defence, the petitioner used fire arm, which

resulted in injury to Ravinder on the calf of his left leg and another person Bal Kishan was also got injured.

Learned senior counsel has further argued that since two cross FIRs have been lodged, as per the CCTV footage available at the spot as well as recording made in the mobile phones, the scene of the crime is undisputedly outside the house of the petitioner, whereas the complainant's side is residing at the distance of about 02 Kms. from there and, therefore, the use of the fire arm at the hands of the petitioner, who had suffered grievous injuries, was an act of self defence.

Learned senior counsel has further submitted that investigation qua the petitioner is complete and the petitioner is no more required for any further custodial investigation. Learned senior counsel has also displayed the CCTV footage in Court.

In reply, learned State counsel has filed reply, by way of affidavit of the Assistant Commissioner of Police, Manesar, Gurugram, in which, registration of both the FIRs being cross case has not been disputed.

Learned State counsel, on instructions from SI Rattan Singh, has submitted that Section 307 IPC has not been added in FIR No. 72 because there was no such opinion of the doctor.

Learned State counsel has further submitted that in the present FIR, 08 persons have been arrested, whereas in the cross version i.e. FIR No. 72, out of total 31, total 28 persons were arrested and now they have been released on bail.

Learned State counsel has not disputed that in FIR No. 72 (the FIR in which the petitioner's side is the complainant), as many as 12 persons

were injured.

Learned counsel for the complainant has also displayed a CCTV footage and submitted that the petitioner has used fire arm. It is further submitted that injuries sustained by two persons, namely Ravinder and Bal Kishan, were declared grievous and, therefore, the police has registered the FIR No. 71 under Section 307 IPC against the petitioner.

After hearing learned counsel for the parties and viewing the CCTV footages, displayed by both the parties, though it will not be appropriate to give any opinion on the same as these CCTV footage are to be proved by leading evidence, yet, it is apparent that the place of occurrence is the outside of the house of the petitioner where a number of persons had gathered.

It is also not disputed that in FIR No. 72, in which the petitioner's side is the complainant, 12 persons have suffered injuries and even the petitioner himself has suffered grievous injury on his head as noticed above in his MLR.

After hearing learned counsel for the parties, the plea of the petitioner that he acted in self defence can only be decided during the course of trial, however, considering the fact that the complainant's party of the present FIR has caused injuries to 12 persons from the petitioner's side and also considering the fact that investigation is complete and the petitioner has himself suffered grievous injuries, I find it to be a fit case for grant of regular bail to the petitioner, being a version and cross-version case.

Accordingly, without commenting upon the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on

regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

02.07.2019

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No