

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.M-45405 of 2019

.....

Date of decision:28.11.2019

Pradeep Nagar

....Petitioner

Vs.

State of Haryana

.....Respondent

.....

Present: Mr. Gautam Dutt, Advocate for the petitioner.

Mr. Surender Singh, Assistant Advocate General, Haryana for
the respondent-State.

Mr. Bikram Chaudhary, Advocate for the complainant.

.....

Amol Rattan Singh, J. (Oral):

On 24.10.2019, the following order was passed by this Court:-

“Mr. Rai, learned Senior Counsel appearing for the petitioner, submits that though the petitioner has been named in the initial part of the FIR, thereafter it is stated even in the vernacular version thereof that it was Kuldeep, Sandeep and “Kuldeep”, who had fired shots at the complainant.

Though in the opinion of this Court, at this stage *prima facie* at least, the name “Kuldeep” having been used twice would seem to be a typographical error, there being only one Kuldeep named in the FIR, however, Mr. Rai has also pointed to the order of the learned Additional Sessions Judge,

dismissing the bail petition of the petitioner by observing to the effect that the gunshot injuries were given by Sandeep and Kuldeep.

He therefore contends that the petitioner has actually been roped in.

Without making any comment on the actual merits of that contention in view of what has been observed herein above, let notice of motion be issued, returnable on 28.11.2019.

In the meanwhile, till the next date of hearing only and specifically, upon the petitioner joining investigation and complying with all conditions stipulated in Section 438(2) of the Cr.P.C., if he is sought to be arrested, he shall be released on bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate.

If the investigating officer does not actually join the petitioner in investigation, he would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation, in terms of the order of this Court.”

Today, learned State counsel on instructions submits that even eye witness to the occurrence i.e. one Deepak has identified the petitioner. With learned counsel for the complainant reiterating that and further submitting that the complainant suffered injury in liver and have to undergo operation.

Mr. Gautam Dutt, learned counsel for the petitioner, however, reiterates that the petitioner has only been roped in along with many others,

[3]

with the FIR stating that there were other persons also with muffled faces on two motorcycles, with one of the persons subsequently having been identified because the muffler fell off his face.

He, consequently, submits that simply because the complainant has named the petitioner in the FIR, would not imply that he was actually present there.

He further submits that in the last line of the complaint made by the complainant, he has also stated that whatever he has stated had been also stated by (one) Deepak, which obviously means that there was no independent corroboration by Deepak.

Having considered the matter, looking at the gravity of the offence and the fact that even the complainant and a person stated to be an eye witness, have both stated that the petitioner was there along with his co-accused, who injured him as above, I see no reason to entertain this petition which is consequently dismissed. The interim order is vacated.

However, nothing stated herein above shall be taken to be an expression on the merits of the case, which would be gone into by the trial Court wholly on the basis of evidence led before it.

November 28, 2019.

(Amol Rattan Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No