

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M-931-2020

Date of Decision: August 17, 2020

Azad

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Mohammad Arshad, Advocate,
for the petitioner.

Mr. Sukhdeep Parmar, DAG, Haryana.

MANOJ BAJAJ, J. (Oral)

CRM No.18520 of 2020

Prayer in the application is for placing on record MLR and
PMR as Annexures P-4 and P-5.

Allowed. Annexures P-4 and P-5 are taken on record.

CRM-M-931-2020

Petitioner has filed this petition under Section 439 Cr.P.C. for
grant of regular bail, pending trial in case FIR No.24 dated 21.02.2019,
under Sections 307, 333, 353, 186 IPC and Section 25 Arms Act, registered
at Police Station, Bichhor, District Nuh. The petitioner is in custody since
his arrest on 22.02.2019.

As per the FIR, on 21.02.2019 one written complaint was
received in Police Station, Bichhor from Inspector Pardeep Incharge, CIA ,
Rewari that they received an information that accused Ikram son of Hamid
and Arshad son of Deen Mohd., who were wanted in FIR No.84/2018 were
present in village Bisru along with their gang and heavy ammunition and

were planning to commit dacoity. At about 8.00 p.m., the police party went to village Bisru in government vehicle, but when they reached near the room, four young boys present there, on seeing the police party, opened fire with intention to kill them, in which Constable Pawan sustained bullet injury. The police team also fired in defence and in this encounter, accused suffered bullet injuries on his head and right leg. Accused persons were arrested with pistol and various live cartridges. On enquiry, accused persons disclosed their names as Yamin, Azad and Ikram and also disclosed the name of injured accused as Arshad. Constable Pawan and accused Arshad were admitted in hospital, where accused Arshad was declared dead. On these broad, allegations, the above FIR was registered.

Learned counsel for the petitioner contends that in the alleged occurrence, the injury inviting Section 307 IPC was not attributed to the petitioner. According to him, it was accused Arshad who had fired the gun shot causing injury to Constable Pawan Kumar and when the police fired in retaliation, the said accused died on the spot. It is pointed out that his co-accused namely, Ikram has been granted regular bail by Additional Sessions Judge, Mewat vide order dated 21.05.2020 (Annexure P-3). He submits that the investigation of the case is complete and, therefore, further custody of the petitioner may not be necessary as the trial is yet to commence. He prays for grant of bail to the petitioner, during the pendency of the trial.

On the other hand, learned State counsel, assisted by SI Parkash Chand, has opposed the prayer on the ground that accused Arshad was wanted by the police and in order to arrest him, when police reached there, the accused started firing. It is not disputed by him that the injury suffered by Pawan Kumar was caused through a gun shot fired by Arshad. He

submits that though the petitioner was also found in possession of a fire arm weapon, however, as per the FSL report, the said weapon was not in working condition. He has submitted that the challan in the above case was filed on 20.04.2019, however, the committal order is yet to be passed by the learned Magistrate.

Considering the above background, custody of the petitioner and the fact that the trial is likely to consume considerable time to conclude as the country continues to be in the throes of global pandemic, namely, COVID-19 and the State Government and District Administration have also imposed various restrictions to curb its spread, this Court does not find any reason to decline the prayer. The petitioner after his arrest on 22.02.2019 is presently confined in judicial custody, therefore, his further detention behind the bars may not be justified.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, Nuh.

The petition is allowed.

August 17, 2020
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No