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

**CRM-M No.1701 of 2020
Date of Decision: 04.03.2020**

DHARMESH

.....Petitioner

Vs

STATE OF HARYANA

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Manish Soni, Advocate
for the petitioner.

Mr. Anmol Malik, A.A.G., Haryana.

Mr. Akash Vashisth, Advocate
for the complainant.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail in second attempt under Section 439 Cr.P.C in case bearing FIR No.587 dated 21.07.2017, registered under Section 323, 307, 325, 302, 506, 34 IPC and Section 25 of the Arms Act at P.S. Sadar, Palwal District Palwal. Earlier petition was got dismissed as withdrawn on 11.04.2019.

The complaint was made against Sarpanch Rajender Prasad in the context of illegal allotment of land of pasture. The complaint was made by Lalit and Vasudev. In the said complaint

Sarpanch was held guilty.

Allegations are that the accused party came to the house of Vasudev duly armed with deadly weapons. Rajender Prasad inflicted gun shot injury on the chest of Durga Dutt. Dharmesh inflicted gun shot injury on the person of Tarun. Surender hit iron rod blow on the head of Tarun. Deepak hit Vishnu with axe on his right hand. Chanki gave lathi blow on the right hand of the Sukhdev. Rinku gave iron rod blow on the hand of Omwati. Kunj Bihari, Dayawanti and Vijay Kumari gave kicks and fists blows. Jagbir and other injured raised alarm. Thereafter Lalit and Vasudev came to the spot and they succeeded in saving the injured persons. While running away from the spot, the accused left their gun and other weapons at the spot.

Evidently, Lalit and Vasudev were not attacked by the assailants. The injury attributed to the petitioner is of gun shot injury on the person of Tarun. Tarun has been examined as PW-2 and he has not supported the case of prosecution.

Dr. Deep Kishore, MO, Civil Hospital, Palwal examined as PW-7 has submitted his opinion. He showed his inability to comment on the aspect of gun shot injury since he is not a ballistic expert. The doctor did not observe any gun residue, smoke, carbon particles or burning of skin in the medical record of patient Tarun. He also did not observe any pattern of gun shot

injury in the medical record of Tarun. No perforation in the gun shot injury was found. The Doctor opined that the possibility of sustaining such injury cannot be ruled out, when the patient is standing 20 feet away from the target upon which the shot was fired. The Doctor has given his opinion regarding gun shot injury because he read pellet in the medical record.

As per recovery from the spot, only one gun was recovered. Evidently, two guns were used in the occurrence. One gun was used by Rajender Prasad and the second gun was used by Dharmesh.

It would be debatable as to the complicity of the petitioner viz-a-viz. the injury received by Tarun, who has been declared as hostile and has not supported the case of the prosecution. Petitioner is in custody since 21.07.2017. Prosecution evidence is still in progress. Out of 25 prosecution witnesses, 16 witnesses have been examined and 4 have been given up. Only 2 prosecution witnesses are yet to be examined.

Learned State counsel on instructions from ASI Aman Parkash however opposed the prayer on the ground that complicity of the petitioner cannot be ruled out at this stage, particularly when other witnesses have supported the prosecution version.

At this stage, without adverting to the merits of the case and taking into consideration the stage of the case, where the

accused would also lead defence evidence after recording their statements under Section 313 Cr.P.C, I am of the view that petitioner can be enlarged on bail.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

March 04, 2020

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No