

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-3826-2020 (O&M)
Date of decision: 03.03.2020

Amit

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. R.A. Sheoran, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.415 dated 14.10.2018 under Sections 147, 148, 149, 302, 307, 323, 325, 332, 341, 353 IPC, registered at Police Station Badhra, District Charkhi Dadri.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered on the statement of Pardeep, on 14.10.2018, Kamal Singh son of Kahna Ram was ploughing the fields adjacent to the village with tractor. The possession of this land was given by the administration few days ago to Kamal Singh. The family members of Kamal Singh were also there. At about 11.00 a.m., when Kamal Singh came on the passage, then some persons in a tractor from the other side and some on feet, carrying lathis, dandas and axes, stopped their tractor and blocked the passage and they surrounded Kamal Singh and other persons. Thereafter, the accused persons, with common intention to

kill Kamal Singh, suddenly attacked on him and other persons, with their respective weapons. On hearing the voice, complainant along with his cousin Vikash, who is son of his paternal uncle, Sombir son of Rameshwar reached at the spot. Madan, Kamal Singh, Surender @ Pappu, Raj Singh, sons of Jag Ram, Ved Parkash @ Bedu, Rakesh, sons of Surender @ Pappu, Vijay, Rakesh, Kalu, sons of Raj Singh, Amit son of Madan Singh, Sachin son of Kamal Singh, Sombir, Narpender, sons of Prahlad Satish, Satbir, sons of Badri, Sukhvender son of Karan Singh, Sandeep son of Randhir, petitioner Amit son of Mahender, Mintu son of Mahender, Surender, Samunder, sons of Mange Ram, Surender son of Lakhbir and Rajesh son of Surender @ Pappu were quarreling with Kamal Singh. Narpender was having an axe and rest were having lathis and dandas. The tractor was driven by Sombir. Rajesh gave repeated axe blows on head of Vikash and Narpender, who was having an axe in his hands, also gave blows on head of Vikash. Other persons also caused injuries to Vikash with their respective weapons. Sombir, with an intention to kill the complainant, drove the tractor towards him. Other accused persons gave injuries to the complainant with lathis and dandas. Then, all of them attacked Kamal Singh with their respective weapons and Kamal Singh, in his self-defence, fired from his licensed 12 bore double barrel gun, which hit Sombir son of Rameshwar. Thereafter, his brother Manjeet arranged a vehicle and took the injured to Govt. Hospital, Bhiwani, where Vikash died. Later on, doctor declared Sombir as died and others were referred to PGIMS, Rohtak.

Learned counsel for the petitioner has argued that there is no allegation against the petitioner of causing injury to any person except that he was part of the group, which has attacked Kamal Singh and others. It is further

argued that later on, during the investigation, the police recorded statement of EASI Jaisingh, wherein he stated that they were present on the spot in pursuance of an order of administration in order to maintain law and order, however, in the said statement, name of the petitioner does not figure.

Learned counsel for the petitioner has referred to the statements of Kamal Singh-injured and complainant-Pardeep, wherein no overt act is attributed towards the petitioner. It is further submitted that two witnesses namely Pardeep and Kamal Singh have already appeared before the trial Court as PW1 and PW2 respectively and again in the statements of both these witnesses, except the general allegations that the petitioner was armed with a lathi and was present along with group of accused persons, nothing is attributed towards him, for causing injuries to any of the injured/victim. It is also submitted that now 14 persons have been summoned as additional accused with the aid of Section 319 Cr.P.C. and the trial will start *de-novo*.

Learned State counsel, on instructions from SI Prem Singh and assisted by learned counsel for the complainant, has, however, opposed the prayer for bail. It is submitted that two prosecution witnesses have been examined as PW1 and PW2, who are injured and eyewitness, however, it is not disputed either by learned State counsel or learned counsel for the complainant that except presence of the petitioner along with a stick, no overt act is attributed to him. Learned State counsel has further submitted that a stick was recovered from the petitioner during the investigation.

Learned counsel for the complainant has submitted that previously an FIR No.385 dated 22.09.2018 under Sections 147, 149, 294, 447, 506 IPC, was got registered on the statement of Kamal Singh, at Police Station Badhra,

District Charkhi Dadri, with regard to disturbing his possession.

A perusal of FIR No.385 shows that the petitioner was not named in the said FIR and allegations are against other accused.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody since 15.11.2018 and in view of submissions made by learned counsel for the parties, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

03.03.2020
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No