

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

101

**CRM-M-11953-2020
Date of decision: 03.04.2020**

Hawa Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Amit Choudhary, Advocate
for the petitioner.

Mr. Deepak Sabharwal, DAG, Haryana
for the respondent.

ARUN KUMAR TYAGI, J (ORAL)

Case has been taken up for hearing through video conferencing.

The petitioner has filed the present (second) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.450 dated 07.07.2018 under Sections 323, 326, 307 and 507 of the Indian Penal Code, 1860 (for short, "the IPC") and Section 25 of the Arms Act, 1959 registered at Police Station Gharaunda, District Karnal.

His first petition was dismissed as withdrawn by this Court vide order dated 05.11.2019.

Briefly stated, the facts relevant for disposal of the petition are that the above said FIR was registered on statement of Sumit Kajal. In his statement, Sumit Kajal alleged that after demarcation about one year back revealing that one bigha of their land had been included in the fields of accused Hawa Singh (petitioner), they took possession of

their land by making a *dole*. On 06.07.2018 at about 6:00 A.M. he along with his father Dalbir had gone to their fields for work. Accused Hawa Singh, Pawan Kumar, Parveen @ Binna, Amarjit, Sunita, Manmohan, Nirmal Singh @ Dandu and Anup in conspiracy with Surender Kumar, Ex.Sarpanch of village Raipur Jattain were already present there armed with weapons of offence and had removed the above said *dole* prepared by the complainant party as per the demarcation. When, the complainant and his father asked them as to why they had removed the *dole*, they started raising dispute. In the meantime, Parveen, his elder brother Bhupender and his mother Santosh also reached in the fields. Accused Hawa Singh (petitioner) who was having gun in his hand, fired aiming the left hand of father of the complainant with intention to kill but the gun shot hit on the left side of chest of father of the complainant. When his brother Bhupender tried to save his father, then accused Parveen @ Binna after taking the gun from Hawa Singh fired upon the face of Bhupender with intention to kill him. When Parveen tried to save Bhupender, then accused Pawan after taking the gun from Parveen @ Binna fired upon Parveen and the gun shot hit him on the right side of his chest. Thereafter, accused Amarjit Kaur wife of Pawan, Sunita wife of Parveen @ Binna, Manmohan, Nirmal Singh @ Dandu and Anup who were having lathis, dandas and hockey in their hands inflicted injuries on the head and hands of his mother Santosh. Due to the gun shot injuries, Dalbir Singh father of the complainant, Bhupender brother of the complainant and Parveen fell down on the ground. Thereafter, accused Hawa Singh, Pawan, Parveen @ Binna, Amarjit Kaur, Sunita, Manmohan, Nirmal

Singh @ Dandu and Anup inflicted injuries to the complainant party with danda, lathis and hockey. Accused Pawan fired a gun shot upon the complainant with intention to kill him but the complainant saved himself by fleeing away from the spot. About 4/5 months back accused Pawan struck his car against the motorcycle of his brother Bhupender.

Learned State counsel has opposed the petition for grant of regular bail.

I have heard learned counsel for the petitioner and learned State counsel and gone through the record.

Learned counsel for the petitioner has argued that the petitioner, who is in custody since 15.07.2018, is aged about 71 years. The petitioner is suffering from chronic obstructive pulmonary disease (acute exacerbations in between) COPD with hypertension with off, on chest pain and constipation. He was referred number of times to Kalpna Chawla Government Medical College and Hospital, Karnal and PGIMER, Chandigarh. The case involves the question as to which of the party was the aggressor due to version and cross-version of the respective parties. The petitioner also received seven injuries. As per the discharge summary, Dalbir Singh received grievous injury on his arm which is not attributed to the petitioner. Co-accused Pawan and Parveen @ Binna have already been granted bail by this Court vide orders dated 05.12.2019 and 25.02.2020 respectively. The trial is likely to take long time. The petitioner is ready to abide by the terms and conditions regarding his appearance before the Court. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State counsel has argued that

the petitioner having committed serious offence does not deserve the grant of regular bail. His first petition for grant of regular bail was dismissed as withdrawn. Therefore, the petition may be dismissed.

On being confronted with order of dismissal of earlier petition as withdrawn, learned counsel for the petitioner has submitted that the petition be treated as being for and restricted to grant of interim bail to the petitioner in view of his ailments and susceptibility to fatality in case of infection of Covid-19 and lack of appropriate medical facilities during confinement in jail.

In the present case it is not disputed that the petitioner, who is in custody since 15.07.2018, is aged about 71 years. The petitioner is suffering from chronic obstructive pulmonary disease (acute exacerbations in between) COPD with hypertension with off, on chest pain and constipation. He was referred number of times to Kalpna Chawla Government Medical College and Hospital, Karnal and PGIMER, Chandigarh. Keeping in view the facts and circumstances of the case, age and ailments and consequent susceptibility of the petitioner to fatality in case of infection of Covid-19 and lack of requisite medical facilities in jail but without commenting on merits of the case, I am of the considered view that the petitioner may be extended the concession of interim regular bail for a period of one and half months.

Therefore, the petition is allowed and the petitioner is ordered to be released on interim regular bail for a period of one and half months on furnishing of bail bonds to the satisfaction of the Additional Sessions Judge/Chief Judicial Magistrate/Duty Magistrate,

Karnal and the petitioner shall surrender before the Superintendent of the concerned jail immediately on expiry of the period of interim bail.

The petitioner shall comply with all requisite conditions imposed under lock down/curfew as the case may be including conditions regarding his medical screening and social distancing.

A copy of this order be sent by e-mail to District & Sessions Judge, Karnal and learned State counsel for information/requisite compliance.

03.04.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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