

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

203

CRM-M-15423 of 2020 (O & M)

Date of decision :-30.10.2020

Rajesh alias Nikka

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. V.P. Sangwan, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana
for the State-respondent No.1.

Mr. B. S. Saroha, Advocate
for the complainant-respondent No.2.

SUVIR SEHGAL, J.

The hearing of this petition has been taken up through video conferencing due to outbreak of Covid-19 pandemic.

Through this petition filed under Section 439 of the Code of Criminal Procedure, 1973, the petitioner seeks grant of regular bail in case FIR No.629 dated 06.08.2019 registered under Sections 148, 149, 323, 341, 506 of the Indian Penal Code (Sections 307 and 325 were added later on) at Police Station City Bhiwani, District Bhiwani.

As per the allegations levelled in the FIR registered on the complaint of Pankaj, son of Muna Lal, the accused petitioner along with his accomplices confronted the petitioner on 05.05.2019 when they met in front of his house. When the accused started hitting him, the complainant ran away from the spot. All the accused chased him, caught hold of him and hit

him with iron pipe, knife and sticks. They left after threatening that in case he meddled with them in future, they will kill him. The motive behind the assault was previous enmity between the complainant and the accused. The complainant was taken to the hospital by his brother and on the basis of the MLR, Sections 307 and 325 IPC, were added. During the course of the investigation, the petitioner and other co-accused were arrested.

Counsel for the petitioner has argued that the petitioner is in custody since November, 2019, the investigation has been completed and report under Section 173 Cr.P.C. has already been filed, therefore, custody of the petitioner is no longer required. It is his argument that the petitioner does not have any enmity with the complainant and the alleged reason for the attack was injuries given by the complainant to the brother of Golu, one of the co-accused. He submits that in any case the allegation against the petitioner is of causing injuries on the leg of the complainant which has not been reported to be dangerous to life. He submits that the essential ingredients of the offences alleged are not made out and nothing incriminating has been recovered from the petitioner. He has placed reliance upon the affidavit, Annexure P-3, executed by the complainant in favour of the petitioner.

Per contra, learned counsel appearing for the State has opposed the petition by urging that the petitioner is involved in as many as 17 other cases, out of which he stands convicted in a number of them. He has filed a reply by way of affidavit of Deputy Superintendent of Police (HQ), Bhiwani dated 15.09.2020, which is taken on record. A copy thereof has been supplied to the counsel for the petitioner. On the basis thereof, he argues that the affidavit allegedly executed by the complainant is procured.

Counsel appearing for the complainant-respondent No.2 has not disputed the affidavit, Annexure P-3.

I have considered the rival submissions of the parties.

From a perusal of the affidavit filed by the State counsel, it is apparent that the petitioner is involved in 18 different criminal cases, including the present FIR, the details of which are reproduced hereunder:-

Sr. No.	Case FIR No. and date	Under sections	Police station	Status
01.	35 dated 23-01-1999	25/54/59 Arms Act	City Bhiwani	Acquitted on 16-03-2006 by the court of Sh. J. Gupta, the then Ld. CJM, Bhiwani.
02.	294 dated 18-08-1999	25/54/59 Arms Act	City Bhiwani	Convicted on 30-04-2002 by the court of Ms. Rupam, the then JMIC, Bhiwani, one year and fine of Rs.500/-.
03.	315 dated 26-09-2001	25/54/59 Arms Act	City Bhiwani	Convicted on 09-05-2003 by the court of Ms. Sarita Gupta, the then ASJ, Bhiwani, two years and fine of Rs.500/-.
04.	111 dated 14-05-1998	457/380 IPC	Civil Line Bhiwani	Convicted on 13-10-2003, two years and fine of Rs.500/-.
05.	191 dated 19-03-1998	457/511 IPC	City Bhiwani	Convicted on 06-10-2002, one year and fine of Rs.100/-.
06.	292 dated 22-05-1998	457/511 IPC	City Bhiwani	Still pending.
07.	293 dated 16-08-1999	457/380 IPC	City Bhiwani	Acquitted on 31-03-2003 by the court of Ms. Salini Singh, the then JMIC, Bhiwani.
08.	282 dated 04-08-1999	454/380 IPC	City Bhiwani	Still pending.

09.	294 dated 18-08-1999	25/54/59 Arms Act	City Bhiwani	Convicted on 30-04-2002 by the court of Ms. Rupam, the then JMIC, Bhiwani, one year and fine of Rs.500/-.
10.	315 dated 26-09-2001	459 IPC & 25/54/59 Arms Act	City Bhiwani	Convicted on 09-05-2003 by the court of Ms. Sarita Gupta, the then ASJ, Bhiwani, one year and fine of Rs.500/-.
11.	236 dated 18-11-2006	379 IPC	Tosham	Still pending.
12.	247 dated 07-10-2007	148/149/323/324/307/302/449/120-B IPC	Sadar Rohtak	Acquitted on 09-05-2003 by the court of Ld. ASJ, Rohtak.
13.	480 dated 02-12-2015	379 IPC	City Bhiwani	Acquitted on 14-07-2006 by the court of Sh. J. B. Gupta, the then Ld. CJM, Bhiwani.
14.	471 dated 24-11-2015	379 IPC	City Bhiwani	Acquitted on 14-07-2006 by the court of Sh. J. B. Gupta, the then Ld. CJM, Bhiwani.
15.	508 dated 15-12-2005	379 IPC	City Bhiwani	Still pending.
16.	07 dated 02-01-2006	399/402 IPC, 25/54/59 Arms Act	City Bhiwani	Acquitted on 23-01-2007 by the court of Sh. Sandeep Garg, the then Ld. ASJ, Bhiwani.
17.	15 dated 05-01-2006	25/54/59 Arms Act	City Bhiwani	Acquitted on 02-05-2006 by the court of Sh. J. B. Gupta, the then Ld. CJM, Bhiwani.

From the above chart, it is apparent that out of the 18 cases registered against the petitioner, he stands convicted in 06 cases whereas the 05 other cases, including the present one, are pending trial. The petitioner has a criminal disposition and it is not in the interest of the society to release such a person. There is strong possibility of the affidavit, Annexure P-4, being procured under threat or pressure as the complainant was also in custody in another criminal case in the same prison as the petitioner.

Still further, from a perusal of the order dated 13.09.2018, Annexure P-5, passed by this Court in CRM-6225-2018 in CRA-D-821-DB-2015, 'Rajesh alias Nikka versus State of Haryana', it transpires that the petitioner after having undergone a sentence of 09 years, after conviction under Section 302 IPC and 25 of the Arms Act wherein he was sentenced to undergo life imprisonment, he was released on bail after his application for suspension of sentence was accepted. Despite having undergone a sentence of 09 years, there seems to be no regret or possibility of reform in the petitioner and within a few months of his release, he has got involved in another criminal case. In fact, such persons are a grave threat to peace in the society and the concession of bail pending trial is not meant for them.

This petition is accordingly dismissed.

It is clarified that any observation made hereinabove shall not be construed to be an expression on the merits of the case.

30.10.2020
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No