

209(2ndcase) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.20003 of 2020
Date of Decision : 04.09.2020

Bajrang ...Petitioner

Versus

State of HaryanaRespondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. B.S. Jaswal, Advocate for the petitioner.
Mr. Surender Singh, Asstt. A.G., Haryana.
Dr. Anand Kumar Bishnoi, Advocate for complainant.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to the outbreak of Covid-19 pandemic.
2. Prayer in the petition under Section 439Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.260, dated 21.10.2019, registered under Sections 147, 149, 323, 506 IPC to which Section 148, 325 and 302 IPC at Police Station Bawal, District Rewari were added vide DDR No.23 dated 22.10.2019, after the death of Rohtash, father of the complainant.
3. Learned counsel for the petitioner contends that the petitioner is in custody since his arrest on 22.10.2019, that the FIR in question was registered at the instance of complainant Dinesh s/o Rohtash Singh who stated that his family had previous enmity with Rakesh s/o Hazari Singh and that on 21.10.2019 at about 6.30 p.m., Rakesh s/o Hanuman, Krishan s/o Jai Singh, Naresh s/o Jai Singh, Praveen s/o Raju, Naveen s/o Raju, Bajrang s/o Satyavir, Rampal s/o Mahinder, Babloo s/o Ram Avtar, Hanuman Singh s/o

5/7 other persons armed with *Lathies*, iron *rods*, *Farsa* came outside his house and started hurling abuses on them. On hearing the noise, the complainant alongwith his father came out of the house, whereupon Rakesh, Krishan, Naresh, Parveen and Naveen suddenly launched an attack on them and gave *lathi*, *rod* and *danda* blows upon his father, who got injured and fell down and on hearing their cries Ajay, Shamsher, Suresh and Asha Devi came out, whereupon the accused attacked said persons also and all of them suffered injuries and later on when villagers and neighbors gathered there, the accused fled. Subsequently, the villagers took father of the complainant, Shamsher, Ajay and Suresh to the hospital. Thereafter, injured Rohtash s/o Ram Nath succumbed to injuries suffered in the occurrence.

5. Learned counsel for the petitioner contends that no injury inflicted on the members of the complainant party is attributed to the petitioner except to Shamsher Singh on his back, uncle of the complainant, as is evident from the supplementary statement of Dinesh son of Rohtash, and statement of Shamsher son of Ram Nath, attached as Annexure P/2 & Annexure P/3 respectively in CRM-M-21792 of 2020. Copies of the aforesaid supplementary statements of the complainant, as well as Shamsher son of Ram Nath are taken on record in the instant case.

6. Learned counsel for the petitioner on the aforementioned basis contends that as per the supplementary statement of the complainant, the attribution to the petitioner is of his having given injury to the complainants uncle, Shamsher whereas as per the statement of Shamsher son of Ram Nath, the petitioner inflicted injuries with lathi on his back and that as per the

son of Ram Nath as attributed to the petitioner are simple in nature.

7. In the aforementioned background, learned counsel for the petitioner contends that the investigation in the case is complete, out of 24 prosecution witnesses, not a single witness has been examined so far, trial is likely to take considerable time on account of the coronavirus pandemic, therefore further custody of the petitioner is not justified. Accordingly, learned counsel for the petitioner prays for concession of regular bail to the petitioner.

7. Learned State Counsel on the other hand on instructions from SI Sarvesh Thakur has opposed the prayer on the ground that the petitioner was member of the unlawful assembly and participated in the crime along with others. However, it is not disputed by him that no injury other than as is attributed in the supplementary statement made by the complainant as well as statement of Shamsher Singh son of Ram Nath was caused by the petitioner to Shamsher and further that no injury was caused by the petitioner to the victim-Rohtash or any other person.

8. Accordingly, in the light of the position as noted above and taking into account the fact that the trial is likely to take considerable period of time and that no injury other than that inflicted on the back of Shamsher (i.e. simple injury) is attributed to the petitioner and that out of 24 prosecution witnesses, none has been examined till date, besides certain restrictions have been imposed by the State Government, as well as the District Administration to curb the spread of Covid-19, further custody of the petitioner would not be justified.

9. Accordingly, the petition is **allowed** and the petitioner is ordered to be released on bail, subject to his furnishing requisite bail/surety bonds to

the satisfaction of the learned trial Court / CJM / Duty Magistrate provided he is not required in any other case. The petitioner shall also abide by the conditions contained in Section 437(3) Cr.P.C. However, nothing stated hereinabove shall be taken to be an expression of opinion qua the merits of the case.

(B.S. Walia)
Judge

September 04, 2020
'Rajneesh-Amit'

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