

CRM-M No.21792 of 2020

Date of Decision : 04.09.2020

Naveen

...Petitioner

Versus

State of Haryana

....Respondent

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

Present : Mr.A.P.S. Deol, *Senior Advocate* with
Mr. H.S. Deol, 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 although as per FIR only five persons, namely, Rakesh, Krishan, Praveen, Naresh and Naveen are alleged to have caused injuries to the victims, including Rohtash (deceased), the complainant in his supplementary statement under Section 161 Cr.P.C. i.e. Annexure P-2 attributed specific injuries by the accused to the deceased-Rohtash, as also to himself and mentioned that the petitioner Naveen had inflicted injury on his hand with *arod*. Relevant extract of the same is reproduced as under:-

“That around 6.30 p.m. Krishan son of Jai Singh, Bajrang son of Satbir, Rakesh son of Hanuman Singh, Rampal son of Mohinder, Naveen son of Raju, Parveen son of Raju, Hanuman son of Hazari, Jai Singh son of Hazari, Bablu son of Ram Avtar, all of them were armed with lathies, danda, pipe rod, alongwith them there were 3 / 4 people were also armed with wooden dandas. That all of them armed with dandas, rods, pipe came out side our house and started hurling abuses. On hearing such noises, my

father Rohtash came out side, I also came out side, that Krishan with a pipe in his hand, gave an injury only father's head, then Jai Singh with the danda in his hand gave an injury to my father on his head, Naresh also inflicted an injury to my father hitting on his head with a rod. At that point of time, when I came forward to save my father, Naveen inflicted an injury to me on my hand with his rod. That my father fell down on the ground and became unconscious.

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That since I had only suffered a simple injury on my hand therefore, I did not get myself medicolegally examined. That I have got written my statement, I have heard it, read it, it is correct.

Sd/P.S. Bawal

Dt.25-12-19"

6. In the aforementioned background, learned counsel for the petitioner contends that investigation in the case is complete, no witness has been examined so far, trial is likely to take considerable period of time on account of 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 has opposed the prayer on the ground that the petitioner was member of the unlawful assembly and participated in the crime alongwith others. However, it is not disputed by him that no injury otherwise than as is attributed in the supplementary statement (Annexure P-2) of the complainant was caused by the petitioner to the complainant and further that no injury was caused by the petitioner to the

victim-Rohtash, who died on 22.10.2019 or to any other person. According to learned State Counsel, the petitioner-Naveen was armed with an iron *rod* and gave a blow on the hand of the complainant-Dinesh but the complainant-Dinesh did not get himself medico legally examined because the injury was simple in nature.

8. 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 none out of the 24 prosecution witnesses have 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. Accordingly, the petition for regular bail is ***allowed*** and the petitioner is directed 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'

<i>Whether speaking/ reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>