

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

208

**CRM-M-22743-2020
Date of decision: 21.09.2020**

Hawa Singh

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. B.S. Rana, Sr. Advocate with
Mr. Gagandeep Rana, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana
for respondent No.1-State.

Mr. Ashit Malik, Advocate
for respondent No.2/complainant.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (fifth) petition under Section 439 of the Code of Criminal Procedure, 1973 (for short, “the Cr.P.C.”) for grant of regular bail in case FIR No.450 dated 07.07.2018 registered at Police Station Gharaunda, District Karnal under Sections 120-B, 148, 149, 307, 323 and 506 of the Indian Penal Code, 1860 (for short, “the IPC”) and Section 25 of the Arms Act, 1959 from which Sections 148, 149 and 120-B of the IPC were deleted and to which Section 326 read with Section 34 of the IPC was added lateron.

The above said FIR was registered on statement of Sumit Kajal who alleged that on demarcation conducted about a year back one bigha agricultural land belonging to them was found to be included in

the land of Hawa Singh (the petitioner). After demarcation they re-erected the boundary. On 06.07.2018 at about 6:00 A.M. when he along with his father Dalbir went to the fields for work, they found that, in conspiracy with Surender Kumar, Ex. Sarpanch, accused Hawa Singh (the petitioner), Pawan and Parveen @ Binna sons of Hawa Singh, Amarjit wife of Pawan, Sunita wife of Parveen @ Binna, Manmohan, Nirmal Singh Dandu and Anup were present on the spot armed with weapons, sticks and hockey who had demolished the boundary. When they questioned them, they started quarreling. On coming to know about the quarrel his cousin Parveen, his elder brother Bhupender and his mother Santosh reached there. Accused Hawa Singh (the petitioner) fired shot with his gun with intention to kill which hit his father Dalbir on his left hand and other parts of body. When his brother Bhupender intervened to rescue them, then accused Parveen @ Binna took the gun from his father Hawa Singh and fired shot on his face with intention to kill him. When his cousin Parveen came forward to rescue them, accused Pawan took the gun from his brother accused Parveen @ Binna and shot on the right side of his chest. Accused Amarjit Kaur, Sunita, Manmohan, Nirmal Singh Dandu and Anup attacked them and caused injuries on the head and hands of his mother Santosh. His father Dalbir Singh, brother Bhupender and cousin Parveen fell down on the ground due to gun shot injuries. Accused Pawan also shot at him (the complainant) but he saved his life by running from the spot. The police investigated the case and on completion of investigation filed report under Section 173(2) of the Cr.P.C. against the petitioner and his co-accused Pawan and Parveen @

Binna.

The petitioner filed three petitions for grant of regular bail earlier which were dismissed as withdrawn vide orders dated 05.11.2019, 27.05.2020 and 12.06.2020 respectively. However, petition filed by him for grant of interim bail was allowed vide order dated 03.04.2020. Now the petitioner has filed the present (fifth) petition for grant of regular bail.

The petition has been opposed by learned State counsel in terms of short reply filed by way of affidavit of Ram Dutt, HPS, Deputy Superintendent of Police, Karnal and learned counsel for respondent No.2/complainant who filed documents A-1 to A-6 copies of orders dated 05.12.2019 and 25.02.2020 passed by this Court and discharge summaries of injured Bhupender, Parveen and Dalbir.

I have heard learned counsel for the petitioner, learned State counsel and learned counsel for respondent No.2/complainant and gone through the relevant record.

Learned counsel for the petitioner has argued that the petitioner is aged about 71 years and is suffering from chronic obstructive pulmonary disease (acute exacerbations in between) COPD with hypertension with Dysnoea on walking, weakness and old age and is at high risk of getting infected with Covid-19. Five injuries which were cumulatively dangerous to life were caused to the petitioner. The police did not register cross-version regarding which complaint has been filed in the Court and is pending. During investigation all the accused except the petitioner and his sons Pawan and Parveen @ Binna were found innocent. The petitioner is in custody since 07.07.2018

except the period of interim bail. Co-accused Pawan and Parveen @ Binna have been granted bail by this Court. The trial is likely to take long time due to restrictions imposed to prevent the spread of infection of Covid-19. No useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State counsel and learned counsel for respondent No.2/complainant have argued that the petitioner fired with his gun and caused injuries to Dalbir, Bhupender and Parveen. Arm of Dalbir was amputated and Bhupender lost vision in one eye due to gun shot injuries. In view of the nature of accusation and gravity of the offences committed, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

The petitioner is alleged to have caused gun shot injuries to Dalbir, Bhupender and Parveen with his gun. Co-accused of the petitioner namely Pawan and Parveen @ Binna have been granted bail on the ground that the gun shot injuries were attributed to the petitioner and the case of the petitioner stands on different footing. The injuries attributed to the petitioner have been medically opined to be dangerous to life. Gun shot injury to Dalbir resulted in amputation of his arm and gun shot injury to Bhupender resulted in loss of vision in one eye. Mere vulnerability of the petitioner to infection of Covid-19 due to his old age and ailments by itself is no ground for release on bail as nature/gravity of accusation, role attributed to the petitioner and other factors have also to be taken into consideration. In view of his ailments, the petitioner was granted interim bail earlier for his medical

treatment and now the petitioner can be provided requisite medical treatment by the concerned jail authorities during the period of his detention in custody.

Keeping in view of the facts and circumstances of the case, attribution of injuries dangerous to life to the petitioner and the fact that the trial can be expedited on easing out of restrictions imposed to prevent the spread of Covid-19, but without commenting on the merits of the case, I am not inclined to extend the concession of regular bail to the petitioner.

In view of the above, the present petition for grant of regular bail to the petitioner is hereby dismissed.

21.09.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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