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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23490-2020 (O&M)
Date of Decision: 24.08.2020

HARSH @ HARSHIT

.....Petitioner

Vs

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Saurabh Sharma, Advocate
for the petitioner.

Mr. Rajat Gautam, D.A.G., Haryana.

RAJ MOHAN SINGH, J.(Oral)

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

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in his second attempt in case bearing FIR No.486 dated 25.11.2018, registered under Sections 148, 149, 323, 324, 326, 452, 307 IPC and under Section 25 of the Arms Act at Police Station Kurukshetra University, District Kurukshetra.

Earlier CRM-M No.8038 of 2020 was got dismissed as withdrawn due to some mistake in the petition with liberty to file fresh petition with better particulars. The prayer was accepted and the petition was dismissed as withdrawn with liberty to file

fresh petition with better particulars vide order dated 06.03.2020.

The FIR was registered at the instance of complainant Anil Kumar, who alleged that on 24.11.2018 at about 11:30 pm, he along with his son Saurabh and nephew Deepak were sleeping in outer room of the house. They heard some noise of breaking open the outer gate and also heard abuses. Son of the complainant, namely, Saurabh went outside. Ravi @ Gorkha opened fire with a country made pistol upon Saurabh and the bullet went passed over his head. There were many assailants along with Ravi @ Gorkha. The complainant alleged that the assailants assaulted him. Anoop Barwa hit the complainant with sword on his hand. The complainant tried to stop the blow with his left hand and his small finger got chopped off and fell away. Nandu Pandit attacked the complainant with *gandasi*. The complainant avoided the blow with his left hand and the *gandasi* hit on his small finger. Anoop Barwa attacked three times with his sword on the back of the complainant and he started bleeding. Cheema hit the complainant on his left thigh with *danda*. Mohit Pandit hit the complainant with a *lathi* on his left ankle. Anoop Barwa attacked the complainant twice on his head with sword. The complainant got smeared with blood.

Complainant, his son Saurabh and nephew Deepak

have been examined as PW-3 to PW-5. All the aforesaid prosecution witness have not supported the case of the prosecution so far as complicity of the accused, except Ravi @ Gorkha and Nandu, is concerned. They were declared hostile qua accused namely Anoop Barwa, Rahul, Mohit, Gulshan, Harsh (petitioner), Navdeep, Surender and Cheema. They were cross-examined by the learned Public Prosecutor.

According to learned counsel for the petitioner no incriminating material could be extracted from their cross-examination so far as complicity of the petitioner is concerned. Petitioner was not named in the FIR. His name came to be disclosed only by the co-accused. Petitioner is in custody since 05.12.2018. Co-accused namely Rahul Malik and Gulshan and Surender @ Sinder have been granted regular bail by this Court vide orders dated 08.07.2020 and 24.07.2020 passed in CRM-M Nos.11151 of 2020 and 17847 of 2020 respectively.

On the other hand, learned State counsel on instructions from ASI Surender Singh submitted that the petitioner was member of the un-lawful assembly and *danda* has been recovered from him. He is having antecedent behaviour of criminal activity as he is involved in three other cases. Out of 36 prosecution witnesses, 9 have been examined including the material witnesses from the complainant side. Due

to the situation arising out of COVID-19 pandemic, culmination of the trial appears to be bleak at this stage.

Learned State counsel further submitted that the petitioner is on bail in other cases including the case under Section 302 IPC.

Looking to the aforesaid facts and in view of the situation arising out due to COVID-19 pandemic and without adverting to the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

August 24, 2020

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No