

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-26484 of 2020(O&M)
DATE OF DECISION : 29.10.2020

Karan

...Petitioner

Versus

State of Haryana

...Respondent

With

CRM-M-27983 of 2020(O&M)

Shiva @ Ponga

...Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. M.S. Chauhan, Advocate,
For the petitioner in CRM-M-26484 of 2020.

Mr. Pardhuman Garg, Advocate
For the petitioner in CRM-M-27983 of 2020.

Mr. Bhupender Singh, DAG Haryana.
(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

1. Petitioners in the above titled two petitions seek regular bail in FIR No. 332 dated 08.08.2020, registered under Sections 148, 149, 323, 307 and 506 IPC and Section 25 of Arms Act, Police Station Ambala Cantonment. Both the petitions are being disposed of by this common order passed in CRM-M-26484 of 2020.

2. Per FIR, lodged at the instance of one Sachin, quarrel had taken place on 06.08.2020 between Tarun Kumar and his brother Karan with Rishabh and Ashwani etc. Following that, on 08.08.2020, Tarun Kumar along with Karan, Gautam, Sahil, Gora, Sagar, Pappa, Kalu, Gaddi, Mohit, Tota, Raman, Abhishek and Gattu came to their locality armed with empty bottles, bricks, swords and dandas and attacked the houses of Rishabh @ Jombi, Rupa and Om Parkash @ Raju with intent to kill. In the process, one of the assailant also fired a shot in the air and exhorted to kill all the residents of the locality. After that they fled from the spot.

3. Learned counsel for the petitioners submit that no specific role has been attributed to the petitioner in the FIR. According to him, this is a case of no injury, while stringent provisions of Section 307 IPC have wrongly been invoked. He further submits that co-accused Aman Sarwan @ Gaddi, who was similarly placed with the petitioners has been granted the benefit of anticipatory bail by the Court below vide order dated 19.08.2020. Whereas the petitioners, who are in custody since 10.08.2020, have been denied the relief of even regular bail. They further submit that no useful purpose would be served by keeping the petitioners in preventive custody anymore and nothing has to be recovered from them.

4. Learned State counsel, on the other hand, opposes the bail plea.

5. On a query of Court, learned State counsel does not controvert that no injury was either caused to the complainant or even otherwise attributed to the petitioners. It is rather intriguing that the report filed by the investigating agency states that no injury has been caused. Yet, section 307 IPC has been invoked in the FIR, without taking seeking any medical report, when concededly there is no injury, grievous or simple.

6. Even otherwise, I am of the view that petitioners are entitled to be released on bail on the ground of parity as well. Admittedly, other co-accused who has been attributed the same role, has already been enlarged on bail by the Court below.

7. Taking wholesome view of the matter, but without expressing any opinion on the merits of the case, at this juncture, the petitioners are admitted to bail on their furnishing bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/ Duty Magistrate, as the case may be. It is made clear that if while on bail, the petitioners are found involved in any other case, the prosecution shall be at liberty to seek cancellation of bail granted to them in this case.

7. Both the petitions stand allowed accordingly.

OCTOBER 29, 2020
Jiten

(ARUN MONGA)
JUDGE

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