

CRM-M-27549-2020 (O&M)

Through Video Conference

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

**CRM-M-27549-2020 (O&M).
Decided on: November 17, 2020.**

Tarun Diwan alias Kallu

.. Petitioner

VERSUS

State of Haryana

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Himanshu Arora, Advocate,
for the petitioner.**

Mr.Naveen Sheoran, DAG, Haryana.

**Mr.Manish Soni, Advocate,
for the complainant.**

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 439 of the Code of Criminal Procedure, seeking regular bail in FIR No.0057 dated 23.01.2020, under Sections 148, 149, 323,452 and 506 IPC (Section 307 IPC added later on), registered at Police Station, Sector 5, District

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Gurugram.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case and his name was not mentioned in the FIR. He has further submitted that no offence is attributable to the petitioner and that 8-10 other persons were involved in the present case and not the petitioner. He has further submitted that investigation in the present case is complete and challan has already been presented but the charges have not been framed and therefore, the petitioner may be released on regular bail.

On the other hand, learned State counsel has submitted that it is a case where even as per the FIR itself about 8 to 10 persons had attacked the complainant which resulted in severe injuries which were potentially dangerous to life. He has further submitted that the petitioner was also a part of the gang which had attacked the complainant. Learned State counsel has referred to the status report filed by the Assistant Commissioner of Police, Old Gurugram. It has been stated that the name of the petitioner and other accused namely Rakesh Joon, Rakesh Bajaj, Kaku Punjabi and Pankaj came forth in the disclosure statement of accused Ajay Joon as well as in the statement of injured Dharamveer recorded on 10.7.2020. Opinion of the Medical Board of General Hospital, Sector 10, Gurugram, was also obtained. The Board opined that the injury to the head is potentially dangerous to life following blunt force impact. The said opinion was received by the investigating officer on 8.7.2020 and Section 307 IPC was added in the present case on the same day. Thereafter, the

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petitioner Tarun Diwan and co-accused Rakesh Bajaj were arrested on 6.8.2020 and their disclosure statements were recorded. Thereafter, the petitioner got recovered one wooden stick/danda and co-accused Rakesh Bajaj got recovered the wire like iron rod and the same were taken into possession. They also got demarcated the place of occurrence and thereafter, they were sent to judicial custody. Challan against them was submitted in the Court on 20.10.2020 and now the case is pending in the Court of JMFC, Gurugram, for appearance and the case is yet to be committed to the Court of Sessions. The charge has not been framed and no PW has been examined.

Learned State counsel has further submitted that as per para 9 of the affidavit filed by the State, the petitioner has been found to be involved in two other cases i.e. FIR No.177 dated 7.5.2019, under Section 61/1/14 of the Excise Act, P.S. Sector 5, Gurugram. The petitioner is on bail in that case and the case is pending trial and FIR No.349 dated 18.10.2019 under Section 61/1/14 of the Excise Act, P.S. City, Gurugram and the petitioner is on bail and the case is pending trial.

I have heard the learned counsel for the parties as well as the learned State counsel through video conference.

As per the allegations which have been contained in the FIR and as per the status report filed by the State in the case, the petitioner was allegedly a part of the gang which had attacked the complainant and as per the Medical Board opinion injury inflicted on the head has been declared to be potentially dangerous to life following blunt force impact. The petitioner although was named on the basis of disclosure statement of

co-accused but thereafter on his disclosure statement the alleged weapon was discovered. Furthermore, the petitioner is involved in two other cases which are pertaining to the Excise Act and as per the present FIR, the present dispute also arose from the alleged indulgence of the accused in the sale of liquor. Charges are yet to be considered to be framed.

Therefore, considering the totality of aforesaid circumstances, I do not deem it fit and proper to grant the concession of regular bail to the petitioner at this stage. Consequently, the present petition is dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

November 17, 2020.	JASGURPREET SINGH PURI)
raj arora	JUDGE
Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No