

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42508-2019 (O&M)

Date of Decision: 04.02.2020

Dharambir

.. Petitioner

Vs.

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Gautam Dutt, Advocate for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana.

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Manoj Bajaj, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No.163 dated 25.05.2019, under Sections 148, 149, 307 and 302 IPC and Section 25 Arms Act, 1959, registered at Police Station City Rewari, District Rewari. He is in custody since his arrest on 03.08.2019.

The FIR in the present case was registered on the statement of complainant Mahesh, who stated that he was running a liquor shop at Naiwali Chowk and his colleagues Ajit and Dinesh had taken his vehicle for some work. At around 9:00 pm, Titu Thakur, T.P. Scheme, Sunil Jalalpur and Anil came to the house of the complainant and informed that the persons, who had taken your vehicle had entered into a fight in front of Sati Colony and had caused injuries to Hanuman and Ombir Asalwas. The complainant telephonically talked to Ajit and Dinesh and came to know that Dinesh, Ajit, Liyon, Manish had caused injuries to Ombir and Hanuman.

The complainant initiated negotiations for a compromise and the talks were

going on, then at around 10:30-11:00 pm, vehicle bearing No. HR81-1114 or 1411, wherein Dharampal Sarpanch, Dhammal and 5-7 other young boys armed with country made pistols and arms, were sitting and it stopped near them. According to the complainant, in order to take revenge, Dharampal Sarpanch, who was armed with country made pistol fired a shot at him and Dhammal fired a shot upon Aditya. It was further narrated that Dharampal and his companions had caused injuries upon Aditya and thereafter, they fled away from the place of occurrence and in the said occurrence, Aditya died. On these broad allegations, the present FIR was registered.

Learned counsel for the petitioner contends that the petitioner was not named in the FIR, who has been indicted on the basis of the statement suffered by co-accused Sukhbir @ Rajinder, who was arrested on 04.06.2019. According to him, the said accused indicted 16 persons including the petitioner. It is argued that the petitioner has not been attributed any overt act, as no injury has been caused by him to anyone much less to the deceased. He has invited the attention of the Court to the final report (Annexure P-3) submitted by the police to contend that the petitioner was shown to be present at the spot with a baton in his hand and the injuries were caused by the others. He submits that the trial of the case is likely to consume considerable time as the charges have not been framed till date and the case is fixed for 20.02.2020 for filing the supplementary challan. He prays for grant of regular bail.

Learned State counsel assisted by ASI Anil Kumar has opposed the prayer on the ground that the petitioner was a member of the unlawful assembly and he was present at the place of occurrence. She does not dispute this fact that the petitioner has not caused any injury to the

deceased. She submits that the challan against 5 persons has been filed, whereas 20 persons are yet to be arrested.

At this stage, Mr. Dutt, learned counsel for the petitioner has argued that the version of complainant describes involvement of maximum 9 persons and more than 20 accused persons have been indicted on the basis of statement suffered by co-accused Sukhbir @ Rajender.

After hearing learned counsel for the parties, this Court is of the opinion that the only role attributed to the petitioner is that he was present at the spot, when the victim was attacked by his co-accused and keeping in view the fact that trial of the case is likely to consume considerable time, therefore, further detention of the petitioner, who is confined in judicial custody may not be justified. Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court Rewari.

04.02.2020
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No