

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-2721-2021 (O&M)

DATE OF DECISION: JANUARY 27, 2021

SABIR

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. MAZLISH KHAN, ADVOCATE
FOR THE PETITIONER.

KANWAR SANJIV KUMAR, AAG, HARYANA.

MR. DEVENDER KUMAR, ADVOCATE
FOR THE COMPLAINANT.

MANOJ BAJAJ, J.(ORAL)

CRM-1969-2021

This is an application for placing on record documents
Annexure P-2 and P-3.

The same are taken on record.

CRM allowed.

Main Case

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.60 dated 1.4.2020, under Section 148, 149, 323, 307, 506 IPC and Section 25 Arms Act, Police Station Bichhore, District Mewat. The petitioner is in custody since his arrest on 9.9.2020.

The allegations contained in the FIR as noticed by the Addl.

Sessions Judge, Mewat in his order dated 11.1.2021, are as under:-

“Brief facts are that on 30.3.2020, the police received information that one person named Naved son of Sahid was admitted in CHC, Punhana having suffered injuries. The police wen to the hospital and procured the MLR of the injured, who was however, not found present in the hospital. Thereafter, on 1.4.2020, the complainant Sahim son of Sahid filed a complaint before the police seeking action against many persons namely, Hayat, Manish, Salim, Irfan, Mubin, Asgar, Maksood, Munshi, Altaf, Jamil, Mustak, Akbar, Ashu son of Police, Sabir son of Ashu, Javid, Ashu son of Kamar Khan, Hasan, Sabir son of Noor Modh., Noor Mohd., Nareshi among others. It was stated by the complainant that he is a resident of village Indana and runs a small departmental store in the village. It was stated that the grand-mother of the complainant namely, Atri had got FIR No.11 of 2020 registered against some of the above mentioned persons due to which they kept a grudge against the complainant and his family members. On 30.3.2020, the younger brother of the complainant namely Naved was going towards his fields while the complainant was a little behind him. When Naved reached the house of Summi, all the accused came out of the house of Irfan and stopped Naved. Salim fired a gunshot towards Naved but the bullet passed just adjacent to his hear. Accused Manish also fired a gunshot towards Naved. Then, Naved cried for help and entered the premises of Summi son of Chand Khan. At that point of time accused Hayat fired a gunshot, which hit Naved in his chest as a result of which he became unconscious and fell on the ground. The co-accused Altaf, Jamil, Muskta, Ashu, Sabir (petitioner-an accused) and Akbar gave lathi blows to Naved while remaining accused also attacked with iron

rods and bricks. The accused then fled from the spot while simultaneously giving a threat to kill the brother of the complainant as and when they got a chance to do so.”

Learned counsel for the petitioner contends that victim Naved is the sole injured who suffered two injuries in the alleged occurrence and in the FIR 20 accused persons including the petitioner were indicted. He has placed on record the Medico-legal report of the victim to contend that the injured suffered two injuries which were caused by co-accused Manish and Hayat @ Hidayat. He submits that as per the prosecution, the petitioner gave fist blows to the victim, whereas the other co-accused had caused injuries with sticks, but as per the MLR, there is no other injury suffered by the victim, except the gunshot injuries. He submits that the investigation of the case is complete qua the petitioner, therefore, he be released on bail.

The prayer is opposed by learned counsel for the complainant as well learned State counsel assisted by ASI Baldev Singh on the ground that the petitioner is named in the FIR and he alongwith his co-accused participated in the crime and caused injuries to the victim. Learned State counsel does not dispute this fact that the gunshots were allegedly fired by co-accused Hayat and Manish. He further states that out of total 20 accused, 18 are yet to be arrested.

Considering the above background and the custody of the petitioner, this Court does not find any reason to decline the prayer, particularly, when investigation of the case qua the petitioner is complete and the trial is likely to take considerable time to conclude in the wake of outbreak of global pandemic, namely, COVID-19 in the region, therefore,

further custody of the petitioner may not be justified. The petitioner is presently confined in judicial custody since 9.9.2020 and is not required for any useful purpose.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

January 27, 2021
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No