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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5412-2020 (O&M)
Date of Decision: 07.12.2021

Gurdeep Singh

.. Petitioner

Vs.

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. R.S. Rai, Sr. Advocate with
Mr. Karan Pathak, Advocate for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

Mr. Sunil Sehag, Advocate
for the complainant.

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Manoj Bajaj, J. (Oral)

Petitioner has filed the present petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No. 55 dated 02.06.2019, under Sections 148, 149, 323, 307, 447 and 302 IPC and Section 25 Arms Act, 1959, registered at Police Station Sectors 13-17, District Panipat. The petitioner is in custody since his arrest on 03.06.2019.

The FIR was lodged on the complaint of Happy Singh @ Simranjeet Singh s/o Balwinder Singh, wherein it was alleged that he had purchased 11 kanals of land from Balkar Singh. On the day of incident i.e. 02.6.2019 at around 12.00 noon, accused Pardeep s/o Jodha Singh came on his tractor and started making a Doll (killa line) on his (complainant's) land. Thereafter, Lovepreet Singh, Chhaminder Singh, Chhingara Singh, Gurnam Singh, Harwinder Singh, Manjeet Singh, Gurwinder Singh @ Giandri, Jodha Singh, Kuldeep Singh and Kashmir Singh also came there and they

also started measuring the said land with measurement tape. Upon this, complainant alongwith Balwinder and Sarwan Singh reached there and objected the same. Then all the accused persons started abusing the complainant side and started quarrelling. Thereafter, Balbir Singh, Pritam Singh, Gurmeet Singh, Jagdeep Singh, Ranjeet Singh, Darshan Singh and Gurmeet Singh also came on the spot and started giving beatings to the complainant side with lathi, dandas, iron rods and swords, which they were carrying with them. Upon this, Gopi Sarpanch alongwith some boys came on the spot to intervene the matter. During that time, accused Gurdeep Singh (petitioner) fired a gun shot upon father of complainant with intention to kill him and the said shot hit his father. Thereafter on raising hue and cry, all the accused persons with their respective weapons fled away from the spot. FIR was registered against the accused persons and later on upon death of Balwinder Singh due to injuries received in the occurrence, Section 302 IPC was added.

Learned senior counsel has argued that the petitioner had allegedly shot the victim Balwinder Singh, but the weapon used in the crime belonged to the victim himself and the petitioner had exercised his right to private defence against the assault opened by the complainant side and the same could have resulted in his death. He submits that in the alleged occurrence, five accused persons suffered injuries at the hands of complainant party, and the place of occurrence is the agricultural land, which is in possession of the accused persons. He submits that the co-accused of the petitioner, namely, Pardeep has already been released on regular bail by this Court vide order dated 16.11.2019 (Annexure P-9) and as the trial is not making any progress, as after part examination of

complainant Happy Singh on 17.03.2021, the application filed by prosecution under Section 319 Cr.P.C. for summoning three additional accused, namely, Jodha Singh, Kashmira Singh and Jasvinder @ Kakku, is pending adjudication. He further submits that the version of the petitioner and other accused persons was not considered by the police, as no cross case was registered and aggrieved against that, a private complaint has been filed by them against the complainant and others, wherein the pre-summoning evidence has been concluded and the same is now fixed for 10.01.2022. He has also referred to the MLR of the petitioner (Annexure P-6) to contend that he also suffered two injuries on his head. He prays for bail.

Learned State counsel assisted by SI Krishan as well as learned counsel for the complainant, have opposed the prayer on the ground that the petitioner is the main accused and along with him other accused persons have caused 47 injuries to nine persons, whereas the father of the complainant died of the gunshot injury caused by petitioner. However, it is not disputed that the weapon used in crime was a licensed weapon of victim himself, but, according to them, the said person never fired at the petitioner as he did not suffer any gunshot injury. Learned State counsel, on instructions from SI Krishan, has stated that indeed the accused persons had also suffered injuries, but no cross case was registered.

Considering the above background, custody of the petitioner as well as the pace at which the trial is progressing, the further detention of the petitioner behind the bars may not be necessary for any useful purpose, who is presently confined in judicial custody after his arrest on 03.06.2019.

Apart from it, the material witnesses are either close relatives of the

deceased, who are injured witnesses or official witnesses and there does not seem to be any possibility of their being won over. Further, the prosecution is likely to consume considerable time to examine its witnesses, therefore, the trial will also take a long time to conclude.

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/Duty Magistrate concerned.

The petition is allowed.

07.12.2021
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No