

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-11350-2021 (O&M)
Date of Decision:- 18.3.2021

Nitesh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Rohit Mittal, Advocate, for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana,
assisted by SI Mahabir Singh.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in respect of a case registered vide FIR No.215, dated 06.10.2020, Police Station Ateli, District Mohindergarh, under Sections 148/149/323/307 IPC and Section 25/54/59 of Arms Act.
2. The FIR in question was lodged at the instance of Sanjeev @ Sanjay, wherein it has been alleged that on 06.10.2020, he alongwith Manoj, Ghanshayam and Virender were going on car bearing registration

No.HR19H-6595, which was being driven by him. It is alleged that at about 4.05 PM, when he parked the car near Kanina Chowk, Ateli Mandi, Ghanshayam alighted from the car while he was sitting on the driver seat. It is alleged that at that point of time, a Bolero camper car came from the side of Kanina and hit against their car and resultantly their car struck with a fruit Rehri. Thereafter, three more vehicles came there and 20/25 persons alighted from the said vehicles and started firing at them with an intention to kill them. The said persons attacked their car with 'sticks', '*farsi*', 'iron rod' and 'sword'. It is alleged that one bullet hit on the hand of the complainant. While Jitender ran away, Manoj was hit on his hip with a bullet. He also sustained injuries on his head. The complainant identified some of the accused as Deva, Rahul Lamba, Pawan Lamba, Rahu, Maandi, Devi Lal Pahari, Pardeep @ Jurat, Shiv Kumar, Rantej and Sonu Titar.

3. Learned counsel for the petitioner has submitted that he is nowhere named in the FIR and has been nominated as an accused on the basis of alleged disclosure statements made by some other co-accused, namely, Vikas, Anurag, Parvesh, Sahil, Ankit, Pardeep and Rantej. It has been submitted that such like disclosure statements cannot be said to be substantive evidence and as such, the petitioner deserves the concession of bail particularly when challan already stands presented.
4. Learned State counsel while opposing the petition has submitted that since several of the co-accused have named the petitioner to have

participated in the occurrence along with other co-accused and is alleged to have caused injuries with the help of a 'stick', no case for grant of bail is made out. Learned State counsel has however, informed that the petitioner as on date has been behind bars since the last about 5 months and that the petitioner happens to be involved in one more case registered for offences under Sections 323, 354-B IPC.

5. I have considered rival submissions addressed before this Court.
6. Having regard to the fact that the petitioner is not named in the FIR and is alleged to have been nominated on the basis of disclosure statements made by co-accused, the admissibility and veracity of which would be debatable and while noticing the fact that the petitioner has been behind bars since the last about 5 months and that challan already stands presented, further detention of the petitioner will not serve any useful purpose particularly when trial is yet to commence. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

March 18, 2021

mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No