

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CRM-M-12328-2021 (O&M)

Date of decision: 28.05.2021

Deepak

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Ashit Malik, Advocate
for the applicant/petitioner.

Mr. Ranvir Singh Arya, Addl. A.G., Haryana
for the respondent-State.

Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Pratham Sethi, Advocate
for the complainant.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.126 dated 28.12.2019 registered under Sections 148, 341, 427, 302, 120B and 201 read with Section 149 of the Indian Penal Code, 1860 (for short 'the IPC') and Sections 3(3) and 27 of the Arms Act, 1959 at Police Station Mundkati, District Palwal.

Briefly stated, the facts as per the prosecution version given in the statement of complainant Lakha Ram are that on 27.12.2019 at about 08:00 P.M. Lakha Ram and his elder son Mohit were returning to their home in Hodal from village Banchari in a car. When they reached near Harijan Mandir on the phirni, six accused persons who were on two motorcycles obstructed their car. Vinod put gun on temple of Lakha Ram, Yashvir caught hold of Lakha Ram, Dhanoj caught hold of his son Mohit and Arun @ Anni fired a shot on the neck of his son Mohit. Two other unknown persons damaged their car with dandas who could be identified by Lakha Ram. When Lakha Ram raised alarm the accused fled from the spot. Mohit died on way to

the hospital. During investigation Lakha Ram made supplementary statement after three days on 31.12.2019 implicating Parma @ Parmanand and Deepak (the petitioner) to be the two unknown persons who were involved in the commission of the crime. The petitioner was arrested and on completion of investigation was charge-sheeted by the police along with other co-accused.

The petitioner being in custody has filed the present petition for grant of regular bail.

The petition has been opposed by the respondent-State in terms of reply filed by way of affidavit of Sh. Dinesh Yadav, HPS, Deputy Superintendent of Police, Hodal, District Palwal in the Registry of this Court which is taken on record.

The petition has also been opposed by the complainant. However, no reply has been filed by the complainant.

I have heard arguments addressed by learned Counsel for the petitioner, learned State Counsel and learned Senior Counsel for the complainant.

Learned Counsel for the petitioner has submitted that the petitioner was not named in the FIR and is alleged to be one of the two unknown persons who were mentioned in the FIR to have participated in the commission of the crime by stopping and damaging the car of the complainant. The petitioner and the complainant belong to the same village. Had the petitioner been present on the spot the complainant would have mentioned his name. The petitioner was falsely implicated by the complainant in his supplementary statement made after three days. As per the prosecution version, the petitioner is alleged to be armed with danda and to have damaged the car and is not alleged to have caused any injury to the deceased or the complainant. Co-accused Parma @ Parmanand has already been granted regular bail by this Court on 02.03.2021. The trial is likely to take long time due to restrictions imposed to prevent spread of Covid-19. No useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel and learned

Senior Counsel for the complainant have submitted that the complainant named the petitioner in his supplementary statement. The petitioner was armed with iron rod and actively participated in commission of the crime and damaged the car of the complainant. In view of the nature of accusation and gravity of the offences, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner, role attributed to the petitioner, involvement of debatable question as to his identification as one of the two unknown persons alleged to have participated in the crime, parity with co-accused Parma @ Parmanand who has been granted regular bail by this Court on 02.03.2021 and the fact that the trial is likely to take long time due to restrictions imposed to prevent the spread of Covid-19, but without commenting on the merits of the case, I am inclined to extend the concession of regular bail to the petitioner.

Accordingly, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

However, the petitioner is granted regular bail subject to the condition that the petitioner shall not in any manner contact/intimidate the complainant or any of the material prosecution witnesses and in case of intimidation of the complainant or any of the material prosecution witnesses by the petitioner, his bail in the present case shall be liable to be cancelled on application to be filed by the prosecution in this regard.

28.05.2021

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(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No