

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-14769-2021

DATE OF DECISION: MAY 27, 2021

RAVINDER

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. MUKESH RAO, ADVOCATE FOR THE PETITIONER.
MR. SUKHDEEP SINGH PARMAR, DAG, HARYANA.
MR. M.D. KHAN, ADVOCATE FOR THE COMPLAINANT.

MANOJ BAJAJ, J.(ORAL)

Petitioner Ravinder has filed this petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.366 dated 14.5.2020, under Section 148, 149, 341, 323, 302 IPC, Police Station HTM, Hisar, District Hisar. The petitioner is in custody since his arrest on 16.5.2020.

The allegations contained in the FIR as noticed by the Addl. Sessions Judge, Hisar, in the order dated 10.3.2021, are as under:-

“The facts of the bail application, in brief, are that complainant Bijender got recorded his statement to the police that on 14.05.2020, at about 4.00 p.m., he along with his brother Sunil alias Sunder and Sonu was going towards Jindal factory in his car bearing no.HR-20Q-8641. He was driving the vehicle. Sunil was sitting on his front side seat and Sonu was sitting on rear seat. When he reached just a head of shop of Monti in street no.3, Shiv Colony, Hisar, a tractor came from front side, which was being driven by son of Ishwar Kumhar. He stopped

the tractor in front of his car. They could not cross the tractor being a narrow space. Sunil came down from the car and tried to understand him, but he replied in wrong words. Sonu also came down. In the meantime, 5-6 persons came out from the house of Ishwar Singh with lathis and dandas. All of them attacked upon them with their weapons. On receipt of lathi blow on the head of Sunil, he fell down on the road. Then they attacked upon him and Sonu. They also sustained head injuries. In his defence, he fired four rounds in the air with his licenced gun. Thereafter, he and Sonu ran away from the spot and got admitted in the hospital. His uncle Jaibir Singh brought Sunil in his car to Sapra Hospital, but he was referred to General Hospital, Hisar and he was declared dead by the doctor. His brother Sunil died due to injuries received by the accused-persons.”

Learned counsel for the petitioner has argued that two of his co-accused, namely, Ishwar and Pardeep who had suffered gun shot injuries have already been released on regular bail by this Court vide order dated 25.2.2021 (Annexure P-6).

He submits that in respect of the alleged occurrence, cross-cases have been registered by both the sides and case FIR No.369 dated 16.5.2020, under Section 307, 323, 34 IPC and Section 25 Arms Act, Police Station HTM Hisar, on the statement of Ishwar (father of petitioner) was registered against the complainant, namely Bijender and another witness Sonu in FIR No.366 dated 14.5.2020, under Section 148, 149, 341, 323, 302 IPC, Police Station HTM, Hisar, District Hisar. It is pointed out that the weapons of offence were also recovered from the said accused persons.

Learned counsel has pointed out that the investigation of the case is

complete and the charges were framed on 4.2.2021, but the prosecution witnesses are yet to be examined. According to him, the trial of the case is likely to consume considerable time. He prays that the petitioner be released on regular bail during the pendency of the trial.

On the other hand, learned counsel for the State assisted by ASI Ved Parkash and learned counsel for the complainant have opposed the aforesaid prayer on the ground that the petitioner and his accomplices opened the attack initially, and later on Bijender and Sonu brought the weapons to save themselves. According to learned State counsel, the injury suffered by deceased Sunil on his head was caused by the petitioner and therefore, he does not deserve the concession of regular bail. However, it is not disputed that complainant Bijender and his co-accused are also facing prosecution in the cross-case bearing FIR No.369 dated 16.5.2020, under Section 307, 323, 34 IPC and Section 25 Arms Act, Police Station HTM Hisar.

At this stage, learned counsel for the petitioner has invited the attention of the Court to the post mortem report of the victim to contend that nature of injury No.1 is a result of gunshot and as per the prosecution, the petitioners were armed with dandas. According to him, it would be a matter of trial as to which party was aggressor and whether the victim died as a result of the injury suffered at the hands of the petitioner or his own companions who were carrying the firearm weapons.

After hearing learned counsel for the parties and considering the above background, this Court finds that though the charges have been framed, but the trial is yet to commence and there does not seem to be any

possibility of its conclusion in near future. As the material witnesses are either the close relatives of the victim or the police officials, therefore, there does not seem any possibility of their being won-over at this stage. Apart from it, the belligerent re-emergence of pandemic COVID-19 in the region has once again forced the State governments of Punjab, Haryana and U.T. Administration, Chandigarh to impose various restrictions to clampdown the contagion, and it would further delay the conclusion of trial. Admittedly, the petitioner is not involved in any other case of similar nature. Thus, 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 16.5.2020.

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.

May 27, 2021
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No