

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

CRM-M-18012-2021 (O&M)
Date of Decision:-21.9.2021

Mahender

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. R.S. Rai, Senior Advocate with
Mr. Sushil Jain, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

Mr. Virender Kumar, Advocate for
Mr. Rahul Rathore, Advocate for the complainant.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner seeks grant of regular bail in respect of a case registered vide FIR No.243 dated 18.8.2020 at Police Station Israna, District Panipat under Sections 148, 149, 302, 506 of Indian Penal Code and Section 25 of Arms Act, wherein offences under Sections 120-B, 201 of IPC and Sections 27, 54 and 59 of Arms act were added later on.
2. The FIR in question was lodged at the instance of Parveen Kumar, wherein it is alleged that he has elder brother namely Manish. His brother Manish was friends with Satish. On 14.8.2020, Dharambir, Dharampal, Rajbir, Ajay and Vijay had lodged a complaint in the police station against Vikas and Satish alleging therein that they had committed dacoity and had also injured them at

Dharam Hotel being run by Dharambir. It is alleged that on 17.8.2020 at about 1:30 p.m. Vikas came to the R.O. water plant being run by his brother Manish, who was present there and stated that he wanted to discuss the matter regarding compromise pertaining to the complaint submitted by Dharambir and others in the police station. On asking of Vikas, the complainant alongwith his brother Manish as well as his brother-in-law Rajesh and Satish went alongwith Vikas to negotiate a compromise. When they reached near the house of Dharambir, he (Dharambir), Dharampal, Rajbir, Ajay, Vijay, wife of Dharampal, wife of Rajbir, Sumit and Sandeep accompanied by 8-10 other persons were present in the street, who were carrying weapons like sticks. All of them started quarreling with them and started beating them. The complainant noticed that Rajbir was carrying a revolver in his hand while Dharambir was having a '*gandasi*' in his hand. Dharampal was armed with a '*lathi*' while all others were also carrying sticks. Upon seeing the complainant and others, Dharambir is alleged to have raised a '*lalkara*' exhorting his companions that the complainant and others be taught a lesson for having raised a quarrel as regards the incident at their '*dhaba*' and that they should not be spared, upon which Rajbir started firing from his revolver at Manish and Satish on account of which they were injured and fell on the ground. While they were lying fallen on the ground, Dharambir gave a blow with '*gandasi*' to Satish and other persons also started assaulting Manish and Satish. When the complainant and others tried to rescue them, then the accused came forward with their sticks. The complainant alleges that when they managed to rescue themselves by fleeing from the spot. The accused thereafter left while issuing threats to kill others from the complainant party.

3. Learned counsel for the petitioner has submitted that the petitioner is nowhere named in the FIR and has been falsely implicated and that the tendency of false implication would be evident from the fact that even the lady members of the family of the accused have been implicated simply by referring to them as wife of Dharampal, wife of Rajbir.
4. Learned counsel for the petitioner has submitted that the petitioner came to be nominated as an accused on 19.8.2020 on the basis of supplementary statement of the complainant, wherein the petitioner and one Sandeep have been nominated and it has simply been stated therein that petitioner and Sandeep were also amongst assailants and were present at the spot. It has, thus, been submitted that the petitioner, who has been behind bars since the last about 1 year, deserves to be released on bail.
5. Opposing the petition, learned State counsel assisted by learned counsel for the complainant has submitted that the co-accused Dharambir in his disclosure statement dated 20.8.2020 has specifically stated that the petitioner and Sandeep had also caused injuries to the deceased with the help of sticks and, as such, their complicity is clearly evident. Learned State counsel has informed that the recovery of stick was effected at the instance of the petitioner, which substantiates the case of the prosecution. Learned State counsel has further informed that upon verification of the call detail record, it had surfaced that the petitioner was present at the spot. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last more than 1 year and that challan already stands presented and also that he is not involved in any other case.
6. I have considered rival submissions addressed before this Court.

7. It is not in dispute that the petitioner is nowhere named in the FIR and he came to be nominated on the basis of supplementary statement recorded on 19.8.2020, wherein he stated that the petitioner and one Sandeep were also present at the spot. The said statement, however, does not assign any overt act to the petitioner and it is nowhere stated therein if the petitioner was armed with any weapon or had caused any injury. No doubt in the disclosure statement of co-accused Dharambir recorded on 20.8.2020, he has stated that the petitioner alongwith Sandeep had also caused injuries with sticks but admissibility and veracity of such like disclosure statement would be debatable. In any case, since the petitioner has been behind bars for a substantial period of 1 year and is stated to have a clean record, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

21.9.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No