

Date of Decision: 08.07.2021

...Petitioner

State of Haryana

...Respondent

Present: Mr. Manish Soni, Advocate for the petitioner.

Mr. Pawan Kumar Longia, DAG, Haryana.

Mr. Himanshu Arora, Advocate for the complainant.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.
2. Prayer in the petition under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.94 dated 13.04.2021, registered under Sections 147, 148, 149, 323, 307 IPC, 1860 and Sections 25(1B)(a), 27(1) of the Arms Act, 1959, at Police Station Manesar, District Gurugram.
3. Learned counsel contends that the complainant side attacked the family members of the petitioner and inflicted injuries on the head of her husband Anil, resulting in her husband being given 18 to 20 stitches to close the wounds, besides injuries were inflicted on the forehead of Indrawati, her mother-in-law, resulting in said Indrawati being given 17 to 18 stitches for closing the wound and that in self-defence, her husband, who is an ex-servicemen, fired from his licensed weapons

resulting in injuries on non-vital part of the complainant party. Learned counsel contends that the complainant party comprises of habitual offenders who have innumerable criminal cases registered against them, whereas there is no other criminal case registered against the petitioner and her family members in the past. Learned Counsel contends that the following criminal cases stand registered against the complainant party against whom FIR No.95 was registered :-

Against accused Sudhir son of Shyam Singh:-

1. FIR No.64 dated 10.02.2015, under Sections 147, 149, 452, 323 IPC P.S. Manesar, Gurugram.
2. FIR No.562 dated 09.11.2016, under Sections 323, 342, 506 IPC P.S. Manesar, Gurugram.
3. FIR No. 515 dated 15.01.2016, under Sections 147, 149, 447 IPC, P.S. Manesar, Gurugram.
4. FIR No. 599 dated 27.11.2016, under Sections 25-29-30-35-54-59 Arms Act, P.S. Manesar Gurugram.
5. FIR No. 95 dated 23.05.2012, Under sections 323, 506, 34, 307 IPC, P.S. Manesar Gurugram.
6. FIR No.385 dated 20.11.2013, under Sections 323, 307, 34 IPC, 25- 54-59 of Arms Act, P.S. Manesar, Gurugram.
7. FIR No. 454 dated 21.10.2014, under Sections 323, 294, 506, 34 IPC P.S. Manesar, Gurugram.
8. FIR No. 143 dated 18.07.2020, under Sections 147, 149, 294, 323, 427, 452, 506 IPC, 3(2)(V) SC, ST Act, P.S. Manesar Gurugram.
9. FIR No. 682 dated 12.10.2015, under Section 174A IPC, P.S. Shivaji Nagar, Gurugram.

Against Deepak son of Shyam Singh:-

1. FIR No.64 dated 10.02.2015, under Sections 147, 149, 452, 323 IPC P.S. Manesar, Gurugram.
2. FIR No. 515 dated 15.01.2016, under Sections 147, 149, 447 IPC, P.S. Manesar, Gurugram.
3. FIR No.38/2016, under Section 61-1-14 of Excise Act, P.S. Manesar Gurugram.
4. FIR No.562 dated 09.11.2016, under Sections 323, 342, 506 IPC P.S. Manesar, Gurugram.
5. FIR No. 599 dated 27.11.2016, under Sections 25-29-30-35-54-59 Arms Act, P.S. Manesar Gurugram.
6. FIR No. 143 dated 18.07.2020, under Sections 147, 149, 294, 323, 427, 452, 506 IPC, 3(2)(V) SC, ST Act, P.S. Manesar Gurugram.
7. FIR No. 141 dated 17.07.2020, under Sections 147, 149, 294, 323, 427, 452, 506 IPC, 3(2)(V) SC, ST Act, P.S. Manesar Gurugram.
8. FIR No.280 dated 27.07.2020, under Sections 323, 34, 379, 506 IPC, P.S. Manesar Gurugram.
9. FIR No.174 dated 25.05.2018, under Sections 147, 148, 325, 341, 34, 379B, 506 IPC, P.S. Bilaspur, Gurugram.
10. FIR No. 1706 dated 04.09.2019, under Section 174A IPC, P.S. Shivaji Nagar, Gurugram.

Against Joginder son of Sube Singh:-

1. FIR No. 141 dated 17.07.2020, under Sections 147, 149, 294, 323, 427, 452, 506 IPC, 3(2)(V) SC, ST Act, P.S. Manesar Gurugram.
2. FIR No. 143 dated 18.07.2020, under Sections 147, 149, 294, 323, 427, 452, 506 IPC, 3(2)(V) SC, ST Act, P.S. Manesar Gurugram.
3. FIR No. 385 dated 20.11.2013, under Sections 323, 307, 34

IPC, 25-54-59 Arms Act, P.S. Bilaspur Gurugram.

Against Satender son of Sube Singh:-

1. FIR No. 141 dated 17.07.2020, under Sections 147, 149, 294, 323, 427, 452, 506 IPC, 3(2)(V) SC, ST Act, P.S. Manesar Gurugram.
2. FIR No. 143 dated 18.07.2020, under Sections 147, 149, 294, 323, 427, 452, 506 IPC, 3(2)(V) SC, ST Act, P.S. Manesar Gurugram.
3. FIR No.64 dated 10.02.2015, under Sections 147, 149, 452, 323 IPC P.S. Manesar, Gurugram.
4. FIR No.88 dated 07.04.2010, under Sections 148, 149, 325, 307 IPC, P.S. Manesar, Gurugram.

Against Dharmender @ Rinku son of Satpal:-

1. FIR No. 143 dated 18.07.2020, under Sections 147, 149, 294, 323, 427, 452, 506 IPC, 3(2)(V) SC, ST Act, P.S. Manesar Gurugram.
2. FIR No.562 dated 09.11.2016, under Sections 323, 342, 506 IPC P.S. Manesar, Gurugram.
3. FIR No.515 dated 15.01.2016, under Sections 147, 149, 447 IPC, P.S. Manesar, Gurugram.
4. FIR No.542 dated 29.10.2016, under Sections 148, 149, 323, 452, 506 IPC, P.S. Manesar Gurugram.

Against Balram son of Satish:-

1. FIR No. 143 dated 18.07.2020, under Sections 147, 149, 294, 323, 427, 452, 506 IPC, 3(2)(V) SC, ST Act, P.S. Manesar Gurugram.

2. FIR No.315 dated 05.10.2019, under Section 68-01-2014 of Excise Act, P.S. Manesar Gurugram.

Against Tirlok son of Dhaniram:-

1. FIR No. 143 dated 18.07.2020, under Sections 147, 149, 294, 323, 427, 452, 506 IPC, 3(2)(V) SC, ST Act, P.S. Manesar Gurugram.

2. FIR No.562 dated 09.11.2016, under Sections 323, 342, 506 IPC P.S. Manesar, Gurugram.

4. Learned counsel further contends that firing of shots by the husband of the petitioner was in self-defence to protect himself and his family members from the vicious and violent attack launched on them by the complainant side and had her husband not fired to protect his family, all of them would have been eliminated. Learned counsel further contends that the complainant side as well as petitioner side got registered FIR Nos. 94 and 95 dated 13.05.2020 but the complainant side has intentionally given name of all family members of the petitioner so as to rope in her all family members, besides investigation is complete, challan has been presented though charges are yet to be framed, trial will take a long time, therefore, no useful purpose would be served by keeping the petitioner in custody.

5. Per contra, learned DAG, Haryana as well as learned counsel for the complainant contend that the petitioner raised *lalkara* on the basis of which her son brought revolver lying inside the house and

fired two shots resulting in one injury to the mother of the complainant on her left shoulder and second injury on the complainants lower back, whereafter the petitioner's husband took the revolver and fired shots resulting in gunshot wound on the back of Joginder, brother of the complainant and another gunshot wound on the left foot of Deepak son of Sham Singh, brother of the complainant. However, neither learned DAG nor learned counsel for the complainant, have denied the injuries on the head of Anil, husband of the petitioner and Indrawati, mother-in-law of the petitioner, resulting in their having been given approximately 20 stitches each on the head.

6. I have considered the submissions of learned counsel for the parties and without commenting on the merits of the case but by taking into account the injuries inflicted on Anil and Indrawati, injuries on complainant side being on non-vital parts, only a lalkara being attributed to the petitioner, the question whether the shots were fired in self-defence to prevent elimination of the petitioner side at the hands of the complainant side all being subject matter of trial as also in view of the petitioner having a clean record, whereas the complainant side has innumerable criminal cases registered against them, the petition for regular bail is allowed and the petitioner is ordered to be released on regular bail during the pendency of the trial, subject to her furnishing bail / surety bonds to the satisfaction of the learned CJM / Trial Court / Duty Magistrate, concerned, provided she is not required in any other case. The petitioner shall abide by the conditions contained in Section 437(3) Cr.P.C.

8. However, nothing stated hereinabove shall be taken as an

expression of opinion on the merits of the case.

(B.S. Walia)
Judge

08.07.2021.
'Rajesh'

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