

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

CRM-M-34171-2021 (O&M)
Date of Decision:-2.11.2021

Anil ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

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

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by SI Sushil.

Mr. Himanshu Arora, Advocate for the complainant.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.94 dated 13.4.2021 at Police Station Manesar, District Gurugram under Sections 147, 148, 149, 323, 307 of Indian Penal Code, 1860 and Sections 25(1B) (a) and 27(1) of Arms Act.
2. The FIR was lodged at the instance of Satender Kumar, wherein it is alleged that on 12.4.2021 the accused namely Anil (petitioner), Mukesh (brother of Anil), Harsh, Mohit, Babli, Renu and Sumitra had given beatings to complainant's mother Ramkala, complainant's brother Joginder and

complainant's cousin brother Deepak. It is also alleged that firearm belonging to Anil was also used by Anil as well as by his son and several shots were fired hitting complainant Satender Kumar, his mother Ramakala, his brother Joginder and cousin brother Deepak.

3. Learned counsel for the petitioner has submitted that it is a case of cross-versions, wherein as many as 4 members from the side of accused including the petitioner had sustained injuries and in respect of which a cross FIR i.e. FIR No.95 dated 13.4.2021 at Police Station Manesar, District Gurugram under Sections 147, 149, 323, 325 and 506 of Indian Penal Code was lodged on the same day against the opposite party. It has been submitted that the opposite side had inflicted a large number of injuries with the help of bricks to the petitioner and other members of his family and that infact Anil had sustained 2 injuries on the head requiring 18-20 stitches. It has been submitted that Mukesh from the side of accused also sustained 1 injury on his head requiring 7 stitches. Indrawati, mother of the petitioner, also sustained 3 injuries including 1 injury on her forehead, which has been declared as a grievous injury and required 17-18 stitches. Babli, wife of the petitioner, is also alleged to have sustained injury on her chest.
4. Learned counsel for the petitioner has submitted that since there is no explanation in the FIR as regards the said injuries, it is apparent that the genesis of occurrence has been suppressed. It has been submitted that infact the petitioner and other members of his family were out-numbered by the opposite party, who were continuously throwing bricks at the petitioner and others and it was in order to defend himself that the petitioner used his licensed weapon, so as to disperse the assailants i.e. members of the opposite party, which perhaps resulted in some injures. Learned counsel has further

submitted that the petitioner otherwise has clean antecedents, whereas the members of the opposite party are seasoned criminals and are involved in a large number of cases.

5. Opposing the petition, learned State counsel assisted by counsel for the complainant has submitted that the mere fact that 4 persons were caused injuries with a firearm by the petitioner while the complainant's side was not armed with any weapon and is alleged to be carrying bricks only, it is apparent that the petitioner is aggressor and the main accused and had caused a large number of injuries. It has been submitted that even if for the sake of argument it is accepted that some injury had been caused by the complainant side and the petitioner had some semblance of any self defence, still it is apparent that he has far exceeded his right of self defense and that, in these circumstances, he does not deserve the concession of bail. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last more than 6 months and that he is not involved in any other case and that the weapon used in the occurrence is the licensed weapon of the petitioner. Learned State counsel has informed that, in the instant case, charges are yet to be framed and that as many as 23 PWs have been cited.
6. I have considered rival submissions addressed before this Court.
7. It is not in dispute that it is a case of cross-version, wherein one FIR i.e. FIR No.95 dated 13.4.2021 has also been lodged against the complainant and others in respect of injuries caused to 4 persons from the petitioner's side including the petitioner. 3 persons from the side of petitioner i.e. the petitioner himself, his brother as well as his mother had sustained injuries on their heads, which required several stitches and infact the injuries sustained

by Indrawati i.e. mother of the petitioner has been declared to be a grievous injury.

8. This Court further finds that while the petitioner is not stated to be involved in any other case, the members of the complainant party are involved in a large number of cases, the details of which have also been noticed in the order dated 8.7.2021 (Annexure P-7) passed by a Coordinate Bench of this Court. The said particulars of cases are as follows:

“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.”
9. Keeping in view the fact that it is a case of cross-version, wherein injuries have been sustained by both the sides including grievous injury by mother of the petitioner, it will be debatable as to which of the party is the aggressor. Further while also bearing in mind that the petitioner otherwise has a clean record and has now been behind bars since the last more than 6 months and conclusion of trial is likely to consume time as the same has not even commenced and as many as 23 PWs have been cited, 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 regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
10. It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.

2.11.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No