

102

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

**CRM-M-39076-2020
Date of Decision: 12.01.2021**

Ankush

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Aditya Sanghi, Advocate,
for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

Mr. P.S. Jammu, Advocate,
for the complainant.

SUDIP AHLUWALIA, J. (ORAL)

This is a petition filed under Section 439 of the Code of Criminal Procedure by the petitioner, seeking regular bail in case FIR No.155 dated 25.05.2020, under Sections 323/506/307/188/147/148/149 of the IPC and Sections 25/27/54 of the Arms Act, registered at Police Station Sirsa Sadar, District Sirsa, Haryana.

2. The brief facts of the prosecution case are that the present case was registered on the complaint of complainant Rajinder Kumar son of

Darshan Ram, who, *inter alia*, stated that on 24.05.2020 at about 1:00/1:30 pm, he, his father Darshan Chand, his brothers Pritam Kumar, Satpal, Dharampal son of Munshi Ram, Ram Chand son of Bag Chand and 5-6 other persons were laying pipeline in their field. It was to be laid from the fields of Kashmir Chand son of Karam Chand, Tilak Raj and other persons. When they started laying pipeline in the field of Kashmir Chand and others, the accused abused them and asked to stop the work of laying pipeline. Complainant asked them (accused persons) not to abuse them because they had no concern with it, but they threatened them with dire consequences. On this, complainant and his family members called respectables of village including Ram Chand, Ex-Sarpanch of village Sikanderpur who was relative of accused Rajan. But the accused persons did not mend their behaviour rather they continued to visit the spot along with weapons and to give threatenings to kill them and it lasted till 8:00 pm. At about 9:30 pm, accused Harkishan and Rajan armed with *kassis* came there and grappled with them. After 5-10 minutes, accused Ankush (petitioner-accused) came there along with his father's licensed gun 12 bore. Accused Harkishan raised an alarm and threatened to shot them. But the villagers snatched his gun. Thereafter, he brought his revolver and fired three shots with an intent to kill them but luckily those shots did not hit anyone. A case under Sections 147, 148, 149, 323, 307, 506 and 188 of the IPC and 25/27/54/59 of the Arms Act was registered against the accused persons.

3. It has been contended on behalf of the petitioner that he has been falsely implicated in the present case and that he never fired any shot at any person.

4. It may be mentioned that the petitioner's father, namely

Harkishan, had been granted bail by the Ld. Additional Sessions Judge, Sirsa, apparently in view of some compromise having arrived at between the parties, as noted by the Ld. Additional Sessions Judge, Sirsa, in Para No.4 of his impugned order dated 09.11.2020 (Annexure P-1). But the petitioner was denied any relief on the ground of parity, since he was apparently not a party to the compromise, and that he had threatened and pressurized the complainant party subsequently.

5. It may also be mentioned that Mr. P.S. Jammu, Advocate, appearing for the complainant in the present case, had strongly opposed the bail prayer of the petitioner on 05.01.2021 by submitting that “... *the petitioner handed over two bullets to his father, who thereafter fired at the victim(s) from the double barrel gun with an intention to kill, and that a Video Recording showing such actual firing done by the petitioner's father is available and has also been handed over to the Investigating Officer*”.

6. This Court thereafter deferred the matter for enabling the complainant's Counsel to place the said Video Recording showing '*the actual firing taking place*'. However, the complainant's side sent a Pendrive containing a video and certain photographs, from which it is seen that the petitioner was undoubtedly carrying two cartridges in his hand for being delivered to his father at the place of occurrence, ostensibly for the purpose of loading the double barrel gun, which his father is seen to be carrying in the Video Recording. However, the said gun was snatched from the petitioner's father by the villagers, and no actual firing from that particular weapon took place, which fact is in direct contradiction to the specific submission of the complainant's Counsel, as already reproduced above.

7. On the other hand, today, the submission made on behalf of the complainant is that after the double barrel gun had been snatched from the petitioner's father, his father went back to his house and came back with his revolver and shot at the complainant's party thrice, but luckily none of those shots actually hit any person. This submission now made before the Court is in a complete departure from that which was made on 05.01.2021 while opposing the petitioner's bail prayer. At any rate, it becomes clear that the shot(s), if any, were fired by only the petitioner's father, who is already on bail granted to him by the Ld. Court below, even though no actual recovery of any empty of cartridge shell was effected from the spot . On the other hand, the .32 caliber pistol and 2 empty cartridge shells of the same caliber were recovered by the Investigating Officer from 'house of the petitioner's father', and the Ballistic Expert's Report on the same could not definitely say whether there was any relationship between those empty shells and the revolver seized, as submitted by Ld. State Counsel in answering the Court's specific query.

8. It transpires that by now the petitioner has already remained in detention for almost three months, following his arrest on 14.10.2020, and challan against him has already been submitted. His further detention for the purpose of investigation is, therefore, certainly not called for, at this stage.

9. In view of the above circumstances, without commenting any further on the merits of the present case as a whole and in view of the detention undergone by the petitioner, as also the fact that the trial is likely to take its own substantial time, particularly on account of the ongoing Covid-19 pandemic, the prayer of the petitioner for regular bail is allowed and he is ordered to be released on bail, subject to appropriate terms and conditions to

the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

10. Disposed off.

12.01.2021

Apurva

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned: Yes/No

2. Whether reportable: Yes/No