

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

108

CRM-M-19107-2022

Date of Decision:06.05.2022

Dharmu @ Dharam Chand

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Abhinav Sood, Advocate,
for the petitioner.

Mr. Ashish Yadav, Addl. A.G., Haryana.

VINOD S. BHARDWAJ , J.(Oral)

The petitioner has approached this Court under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in case FIR No.403 dated 15.11.2021 under Sections 148, 149, 323, 324, 506 of the Indian Penal Code, 1860 and Section 25 of the Arms Act (the offences under Section 325 IPC and Sections 54 & 59 of the Arms Act, 1959 were added later on), registered at Police Station Chand Hut, Tehsil and District Palwal.

Learned counsel appearing on behalf of the petitioner contends that the true genesis of the occurrence has been concealed by the complainant and that as a matter of fact, cross version had also been raised by the sister of the petitioner wherein the complainant is arrayed as an accused. He points out that as per the complainant-party, the petitioner had

made a wall adjacent to the house of the complainant resulting into a scuffle as the petitioner-party asked the complainant not to break the said wall and to forcibly enter into the plot. It is submitted that the petitioner suffered injuries in the said incident and that the MLR (Annexure P-4) shows that there are three injuries suffered by the petitioner. It is further submitted that injury No.1 is an incised wound while the injury No.2 is a superficial incised wound and injury No.3 is a lacerated wound. There is no explanation with respect to the manner in which such injuries have been caused. It is alleged that the motive for opening attack is to gain legal possession of the plot adjacent to the house of the petitioner. He further submits that there is no specific attribution to the petitioner and all the offences except the offence under Section 25 of the Arms Act are bailable offences.

A perusal of the FIR shows that the petitioner along with various other persons had opened attack on the complainant-party. The petitioner is alleged to be armed with a knife and have caused injuries on the head, neck and hands of the complainant as well as his brother. It is pointed out that there was an earlier case *inter se* amongst the parties registered against petitioner-Dharmu @ Dharam Chand for the offence under Sections 323, 324, 326 IPC and that the cause of the opening attack on the complainant-party was to threaten them and to force them to enter into a settlement/compromise.

An attempt was made by the learned counsel appearing on behalf of the petitioner to submit that the foundation of the instant FIR and the motive attributed is unsubstantiated and is false inasmuch as the compromise has already been effected between the parties. On a pointed query, learned counsel appearing on behalf of the petitioner conceded that

the compromise in question was executed between the parties on 07.01.2022, whereas the FIR in the instant case has been registered on 15.11.2021. Hence, the motive alleged by the complainant cannot be said to be misplaced, false or misleading.

Insofar as the submission of the learned counsel for the petitioner about the complainant-party attempted to forcibly take possession of the plot adjacent to the house of the petitioner is concerned, there is no claim of the petitioner that the plot in question is owned by the petitioner or by any members of his family. The narrative as given in the cross-version(Annexure P-1) authored by the sister of the petitioner shows that the plot is adjacent to their house and the ownership thereof is not claimed by the petitioner or any other members of his family. It is incomprehensible for the petitioner to have a title, right or possession of the said plot. In the absence of any pre-existing right, possession or title over the said plot, the complainant-party cannot *ex facie* be said to be the aggressor.

It has been noticed specifically by the Additional Sessions Judge, Palwal, in his order that the petitioner along with other members of his family/co-accused has admitted that he is pressurizing and compelling the complainant-Kamal to forcibly enter into a settlement and that the resistance of the complainant unleashed violence upon the complainant. It is clearly a case reflecting complete disregard to the rule of law. Any leniency to such a person is likely to send wrong signals to the society and a person cannot be permitted to prove himself as right by displaying sheer brute force.

Taking into consideration the manner in which the offence in question had been committed and the successive involvement of the petitioner, causing injuries to the complainant who had also sustained the

injuries in the earlier case registered against the petitioner, the petitioner does not deserve the concession of anticipatory bail.

The instant petition is accordingly dismissed.

May 06, 2022
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No