

**211 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-36987-2022

Date of decision : 26.08.2022

Ankush

.....Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Parveen Sharma, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

RAJESH BHARDWAJ, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.284 dated 02.8.2020 under sections 148, 149, 307, 323, 506 I.P.C and sections 25, 54, 59 of Arms Act (later Section 149 IPC deleted and Sections 216, 354-D of IPC added) registered at Police Station Gohana Sadar, District Sonapat.

As per factual matrix, the FIR in question was lodged by Baljit son of Hawa Singh. It was alleged by the complainant that on 1.8.2020 wife of his elder son went to plot for putting cow dung. Ankush son of Krishan made some objectionable remarks on her. On account of the same they went to lodge protest in their house and then Ankush i.e. the present petitioner and his brother Amit and four other boys with common intention attacked them. Amit caused a gandasi blow on his hand and foot and Ankush with an intention to kill his son Amarjit fired a shot which hit on the thigh of his son Amarjit. Thereafter, seeing the neighbors the assailants escaped with their respective weapons. Request

was made to take legal action against the culprits.

On the complaint made by the complainant present FIR was registered and investigation commenced. During investigation injured Baljit and Amarjit were medico-legally examined. In all eight accused were named in the FIR and all of them were arrested. Six out of the eight accused were granted bail by the learned Additional District and Sessions Judge, Sonapat and one accused namely, Amit was granted bail by this Court vide order dated 23.08.2022 and only the present petitioner Ankush is behind bars since 10.08.2020. The present petitioner approached learned Additional District and Sessions Judge, Sonapat for grant of bail, however, after hearing the parties, the same was declined vide order dated 11.02.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that petitioner has been falsely implicated in the present case. He submits that there was a simple scuffle among the neighbors due to which the present petitioner was falsely implicated in the present case. To substantiate his arguments of false implication counsel submits that both the complainant and injured i.e. Baljit and Amarjit have been examined by the learned Trial Court and both the witnesses have not supported the case of prosecution. Counsel submits that as per the allegations made in the FIR the role attributed to the petitioner was that he fired towards complainant Amarjeet with intention to kill him which hit his thigh. However, counsel submits that as both the complainant and injured have not supported the case of the prosecution, false implication of the petitioner is writ large. He submits that petitioner is behind bars for the last about 02

years. He submits that as the material witnesses already stand examined, possibility of the petitioner influencing the witnesses no more survives. He submits that in the overall facts and circumstances of the case petitioner deserves to be granted bail.

On the other hand, learned State counsel submits that case of the prosecution is based on the statement of eye witnesses and the petitioner is specifically named in the FIR. He submits that there are specific allegations against him of having armed with country made pistol fired at Amarjeet with an intention to kill him which hit on his thigh. He candidly submits that the complainant has been examined before the Trial Court and as he has not supported the case of prosecution, he has been declared hostile. It is submitted that in all there are 24 prosecution witnesses out of which 5 including the complainant and injured have been examined.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, petitioner is behind bars since 10.08.2020. As per case of the prosecution, he armed with country made pistol fired at the injured towards Amarjeet. As per the MLR injury caused to the complainant is a lacerated wound, which is simple in nature. Besides this, both complainant and injured have already been examined by the learned Trial Court and they have not supported the case of prosecution and thus declared hostile. Out of the total 24 prosecution witnesses 5 including the complainant and injured have already been examined and therefore possibility of the petitioner influencing the material witnesses does not survive any more. The veracity of the allegations levelled against the

petitioner would be assessed by the Trial Court only upon conclusion of the trial. This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence to be led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

26.08.2022
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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