

CRM-M-10323 of 2023

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

CRM-M-10323 of 2023

Date of decision: 03.03.2023

Rakesh alias Petha

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. R.S. Sidhu, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

Mr. A.S. Shera, Advocate,
for the complainant.

NAMIT KUMAR, J.(ORAL)

This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.477 dated 13.08.2021 under Sections 149, 323, 307, 325, 506 IPC and Sections 25/25-54-59 of the Arms Act, 1959, registered at Police Station Kundli, District Sonipat.

Brief facts of the case are that on 13.8.2021 at about 8:00 a.m., Rakesh (present petitioner), Rajesh and Kamla told the complainant Parteek about installation of submersible pump in the street. The complainant told them that since the Court case in this regard is pending, they should wait for decision in that case. whereupon petitioner-Rakesh caught hold of the complainant's brother Navdeep

CRM-M-10323 of 2023

and Rajesh hit him on his head with lathi. The complainant tried to rescue him and petitioner, being exhorted by his mother, took out pistol from his house and fired gunshots upon him, which hit him on his right foot and he fell down at the spot. His mother tried to rescue him but Kamla caught hold of his mother and Huma hit his mother on his hand. At this same time, Rohit took out chili powder from his house and threw it in the eyes of the complainant and the assailants threatened them with dire consequences. On the basis of this complaint, an FIR was registered for the offence punishable under Sections 323/325/307/506,IPC & Section 25 of the Arms Act,1959.

Learned counsel for the petitioner contends that the petitioner is innocent and has been falsely implicated in the present case. Petitioner is in custody since 15.09.2021. He further submits that co-accused Huma and Kamla have already been granted the concession of anticipatory bail by a Co-ordinate Bench of this Court vide order dated 02.12.2021 and since no recovery is to be effected from the petitioner and trial will take a considerable time to conclude, petitioner may be granted regular bail.

Per contra, on receipt of advance copy of the petition, learned State counsel has opposed the prayer for grant of regular bail to the petitioner by submitting that since petitioner along with other accused, namely, Rajesh had beaten the complainant and caught hold of his brother-Navdeep and petitioner fired shot from his pistol , which hit on the right foot of the complainant, therefore, petitioner is not entitled for grant of regular bail.

CRM-M-10323 of 2023

I have heard learned counsel for the parties and perused the record.

Earlier, the petitioner approached the Court of learned Additional Sessions Judge, Sonipat, for grant of regular bail, which was dismissed vide order dated 13.05.2022 by recording the following observations: -

“6. Perusal of the FIR that the applicant-accused is the main accused who has been attributed specific role in the FIR. As per the FIR, a civil litigation was going on between the parties, the applicant-accused alongwith other accused Rajesh had beaten the complainant had caught hold of Navdeep, brother of complainant and co-accused Rajesh, had hit him on his head with Lathi. When complainant tried to rescue his brother, applicant brought a pistol from his house and fired at the complainant and he fired shot hit on the right foot of complainant. Thus specific role has been attributed to the applicant. The injuries suffered by the complainant was declared dangerous to life. Although the investigation in the case has been completed but no evidence of the prosecution has yet been recorded. If the applicant-accused released on bail, he may influence and pressurize the witnesses and may flee from justice. As per the reply filed by the applicant-accused is involved in 8 other cases of similar nature. Thus there is every apprehension that he may flee from justice. Thus the applicant-accused is not entitled for concession of regular bail. Bail application of applicant-accused could not be accepted unless the material witnesses are examined in the case.”

Since the petitioner is the main accused, who fired shot at the complainant from his pistol, which hit on the right foot of the

CRM-M-10323 of 2023

complainant and the injuries suffered by the complainant were declared to be dangerous to life, therefore, keeping in view specific role attributed to him, he is not entitled to the concession of regular bail in the present case.

So far as bail granted to Huma and Kamra is concerned, it has been noticed that Huma inflicted *danda* blow on Krishma-mother of the complainant whereas Kamla caught hold of the mother of the complainant who tried to rescue her son. Therefore, petitioner being not at parity with co-accused Huma and Kamla, is not entitled for grant of regular bail.

Moreover, petitioner is a habitual offender as he is involved in eight more cases. In para 14 of the petition, petitioner has mentioned the FIRs in which he is involved, however, details of offences for which the said FIRs have been registered are not mentioned, which amounts to concealment on the part of the petitioner. However, this Court has made efforts to find out the details of offences under which the eight FIRs were registered against the petitioner and it has been revealed that petitioner is involved in serious offences like robbery, snatching, extortion and offence under the Arms Act etc., the details of which are as under: -

FIR No. & Year	Police Station/District	Status
FIR No. 413/2019	Police Station Kundli, District Sonapat	Under Sections 379/392 IPC and Section 25 of Arms Act (On bail)
FIR No. 36/2020	Police Station Kundli, District Sonapat	Under Sections 285/379-A/392 IPC and Section 25 of Arms Act (On bail)

CRM-M-10323 of 2023

FIR No. 37/2020	Police Station Kundli, District Sonapat	Under Sections 34/379/427 IPC (On bail)
FIR No. 47/2020	Police Station Kundli, District Sonapat	He is on bail
FIR No. 46/2020	Police Station Kundli, District Sonapat	Under Sections 379-A /341/392/365/506/34 IPC and Section 25/54/59-A of Arms Act (On bail)
FIR No. 226/2019	Police Station Rai, District Sonapat	Under Sections 379-B/412/34 IPC and Section 25/54/59 of Arms Act (On bail)
FIR No. 406/2021	Police Station Rai, District Sonapat	Under Sections 379-B/387/201 IPC and Section 25/54/59 of Arms Act (On bail)
FIR No. 119/2021	Police Station Farukhnagar, District Gurugram	He is on bail

It is well-settled that a person who does not approach the Court with clean hands is not entitled for the relief sought. Reference in this regard can be made to the judgments in ***Dalip Singh v. State of U.P. and others - JT 2009 (15) SC 201: (2010) 2 SCC 114*** and ***Amar Singh v. Union of India and others, WP(C) No.39/06 decided on 11.05.2011.***

In view of the above facts and circumstances of this case, petitioner is not entitled to grant of regular bail.

Dismissed.

03.03.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether Reportable

:

Yes/No