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(238)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-21208-2023

Date of Decision: 17.07.2023

RAJAN VERMA

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Namit Khurana, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.01 dated 01.01.2023 (Annexure P-1) registered under Sections 307, 34 IPC and 27 of Arms Act at Police Station Farakpur, District Yamuna Nagar.

2. The present FIR came to be registered at the instance of Deepak Sharma alias Deepu son of Suman Sharma who stated that on 01.01.2023 at about 04.15 PM, he along with his friend Mandeep Singh son of Gurbaksh Singh were present at Manoj Medical in order to fetch a tablet medicine. On seeing them there, his elder brother Ishant Sharma alias Ishu also came to the spot. In the meantime, Rajan Verma (petitioner) and Pawan Verma who were running a goldsmith shop near the medical store proceeded to open the shutter of their shop after alighting from their vehicle. At that time, his (complainant's) elder brother and Rajan Verma had an altercation. Suddenly, Rajan Verma took a revolver from his shop and started firing upon his brother

Ishant Sharma alias Ishu. Rajan Verma also fired shots towards them (complainant and Mandeep Singh). Pawan Verma also started pelting bricks upon them (complainant party). They (complainant party) also started pelting bricks in their self-defence. His brother Ishant Sharma alias Ishu was struck by a bullet in his abdomen. Meanwhile, one Nitin who was going past in his car was stopped by them (complainant party). Ishant Sharma alias Ishu injured was made to sit in the rear seat of the vehicle. Meanwhile, Rajan Verma rushed behind the said vehicle and kept firing shots. In that process one bullet struck Nitin and also his vehicle. Thereafter, the injured were taken to Gaba Hospital, Yamuna Nagar where Nitin was hospitalized whereas his brother Ishant Sharma alias Ishu was brought to M.M. Hospital, Mullana for treatment. Legal action was sought against Rajan Verma and his father Pawan Verma.

3. The learned counsel for the petitioner contends that the allegations as levelled in the FIR are absolutely baseless. In fact, the petitioner had got registered an FIR No.218 dated 05.08.2019 (Annexure P-2) under Sections 387 and 506 IPC at Police Station Farakpur (Yamuna Nagar) and an FIR No.116 dated 27.02.2020 (Annexure P-3) under Sections 148, 149, 427, 452, 506 IPC at Police Station Farakpur (Yamuna Nagar) against the complainants for extortion and beatings being caused to the petitioner and his family members. The present complainant party had been threatening the petitioner and his family on account of the registration of the aforementioned FIR. Thereafter, the petitioner filed a complaint with the Superintendent of Police, Yamuna Nagar (Annexure P-4) against the conduct of the complainant and his brother Ishant Sharma alias Ishu. However, the

Investigating Agency did not take any action against them. Once again, on the date of the occurrence, it was the complainant party that brutally assaulted the father of the petitioner causing him a fracture on his head. It was only in self-defence that the petitioner had fired from his licenced weapon. In fact, the occurrence had taken place at the shop of the petitioner itself. He further contends that the complainant Deepak Sharma alias Deepu was accused in three other cases whereas his brother Ishant Sharma alias Ishu was accused in as many as 13 cases. Keeping in view the fact that the petitioner had been in custody since 02.01.2023 and only 5 out of the 25 prosecution witnesses had been examined so far, he was entitled to the concession of bail, moreso, when he had clean antecedents with no other case registered against him.

4. On the other hand, the learned State counsel while referring to the reply dated 26.06.2023 contends that the petitioner is the main accused having fired at the complainant party resulting in firearms injuries being caused to Ishant Sharma alias Ishu and Nitin. Therefore, he was not entitled to the concession of bail. He, however, concedes that the petitioner is in custody since 02.01.2023, only 05 out of the 25 prosecution witnesses had been examined so far and that the complainant party has criminal antecedents with multiple FIRs registered against them.

5. I have heard the learned counsel for the parties.

6. Whether the petitioner had fired in his self-defence or not shall be a matter of adjudication during the course of trial. Admittedly, the petitioner had got registered two cases against the complainant party prior to the present occurrence. In addition, a complaint (Annexure P-4) had also

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been submitted to the Investigating Agency by the petitioner against the complainant party. The petitioner is stated to be in custody since 02.01.2023 and only 05 out of the 25 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded anytime soon. As such, the further incarceration of the petitioner is not required, moreso, when he is a first-time offender with no other case registered against him.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Rajan Verma son of Pawan Kumar is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

9. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

17.07.2023

JITESH

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