

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-23187-2023 (O&M)

Reserved on 16.5.2023.

Date of decision : 18.5.2023

Sabbir

... Petitioner

VERSUS

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by : Mr. Gautam Dutt, Advocate,
for the petitioner.

Mr. Naveen Kumar Sheoran, DAG, Haryana.

Mr. Chanderhas Yadav, Advocate,
for the complainant.

KARAMJIT SINGH, J. (Oral)

Prayer is for grant of anticipatory bail to the petitioner in criminal case having FIR No.0327 dated 3.11.2022 registered under Sections 148, 149, 323, 452, 506 IPC (Section 25 of Arms Act) at Police Station Nagina, District Nuh.

2. The allegations in nutshell are that on 3.11.2022, at about 1:00 p.m., the accused persons including the petitioner trespassed into the house of Jakir and at that time, the accused persons were armed with baton sticks and firearms. On hearing the noise, Naved and Hamid sons of Mushtaq and Imran son of Sirajuddin also reached there and when they tried to intervene, the petitioner and his co-accused Altaf Hussain fired shots, as a result of which, Naved, Hamid and Imran sustained injuries.

3. The injured were taken to Government Hospital, Mandi Khera from where injured Naved was referred to Medical College, Nalhar and then was shifted to Trauma Centre in AIIMS, for his treatment.

4. Counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case and he was not involved in the alleged occurrence; that actually in the year, 2022, co-accused Tasleema wife of Altaf contested the election for the post of Sarpanch and in that election, the complainant opposed Tasleema, as a result of which, Haroon, brother-in-law of Tasleema and other members of his family were nursing grudge against the complainant. The election was won by Tasleema wife of Altaf; that on 3.11.2022, close relative of the complainant died due to illness and the complainant and other members of his family were taking the dead body to the burial ground and at about 10:30 a.m. when they reached near the house of accused Jakir, the members of the opposite party started pelting stones from roof top and they were also having firearms and the incident was videographed. On receiving information, the police reached the spot and then the dead body was buried in the burial ground. When the complainant party was coming back from burial ground, they were attacked by the opposite party and at that time, the members of the opposite party also started firing and some of them also pelted stones and in this regard FIR No.336 dated 8.11.2022 (Annexure P-2) was registered against the opposite party for causing injuries to Rashid, Taufiq, Asmeena and Nawab and some other persons. He further submits that thus, the present case involves version as well as cross version and it is matter of trial as to which was the aggressor party. He further contends that as per prosecution version, the petitioner fired shot which hit in the head of Naved. He further submits

that actually, no such firearm injury was caused by the petitioner to Naved; that as per medico-legal report of Naved, it is clear that when he was taken to Civil Hospital, Mandi Khera, he was conscious, well oriented and his vital were stable.

5. Counsel for the petitioner further submits that as per said medico-legal report, a penetrating wound of the size 0.3 cm x 0.3 cm circular in shape 2 cm above eye brow was found on the person of Naved. He further submits that such a small wound could not be a gun shot injury. He further contends that the petitioner is ready to join the investigation with the police.

6. Present petition is resisted by the State counsel as well as counsel for the complainant, both of whom, have submitted that there are specific allegations that the petitioner caused firearm injury to Naved who was later on treated in AIIMS for the said injury and as per NCCT report, one foreign body was seen in right posterior aspect of brain stem of Naved with entry wound in right frontal region with fracture. It has been further contended that the petitioner is required by the police for proper investigation and recovery of firearm is also to be effected.

7. I have considered the submissions made by the counsel for the parties.

8. No doubt, there is version as well as cross version involved in the present case but there are specific allegations that at the time of the occurrence, the petitioner caused firearm injury to Naved. Said ocular version is apparently corroborated by MLR and NCCT report of injured Naved, as per which, entry wound is seen in right frontal region and radio dense foreign bodies are detected in the right frontal region. So, serious

allegations are appearing on record against the petitioner.

9. This Court is of the view that custodial interrogation of the petitioner is necessary to go to the root of the case and further, recovery of weapon used by the petitioner in the commission of the crime is also required to be effected. In the given circumstances, no ground is made out to grant concession of anticipatory bail to the petitioner.

10. Consequently, the present petition is hereby dismissed. However, observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

May 18, 2023

Paritosh Kumar

(KARAMJIT SINGH)
JUDGE

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