

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-41520-2022

Date of Decision: 30.5.2023

Mohit

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. P.S.Sullar, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

Mr. H.S.Deol, Advocate,
for the complainant.

KARAMJIT SINGH, J.

Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.161 dated 8.6.2021 registered for the offences punishable under Sections 307, 324, 323, 452, 147, 149 IPC and Section 25 of Arms Act (Sections 302, 326, 216, 212, 148 IPC and Section 27 of Arms Act added later on) at Police Station Dujana, District Jhajjar.

2. The allegations in brief are that about one year back, dispute regarding wall of the house arose between the complainant party and co-villager Udal son of Lal Chand but at that time, dispute was settled with the intervention of *Panchayat*. On 7.6.2021 at about 3:00 p.m., complainant-Bisni, her husband Dharambir, daughter-in-law Asha and grandsons Ankit

and Nitin were present in their house and in the meantime, Udal, Kulbir, Saroj and two other boys started hurling abuses while standing outside the house of the complainant. Dharambir objected to the same on which, the said persons entered the house of the complainant after breaking its door and Kulbir fired upon Dharambir and Ankit while Udal caused sword blow to the complainant and Dharambir while Saroj gave stick blows and two another boys having *farsa* and *lathi* also caused injuries to the complainant party. The injured were taken to the hospital and in the meanwhile, Dharambir died and during investigation, the petitioner was arrested on 18.10.2021 as he was named as accused on the basis of the disclosure statement of co-accused Kulbir.

3. Counsel for the petitioner *inter alia* contends that the petitioner was not named in the FIR and later on, arraigned as accused on the basis of the disclosure statement of co-accused/Kulbir and the same is subject matter of trial. It is further submitted that during investigation, the petitioner was arrested but no incriminating article was recovered from his possession. He further submits that during trial, all the material witnesses have been examined and copies of their testimonies are placed on record; that there are no specific allegations against the present petitioner who is in custody since 18.10.2021. So, prayer is made that the petitioner be released on bail.

4. Present petition is contested by the State counsel who submits that the petitioner is facing trial with regard to murder to Dharambir. State counsel has not disputed the fact that the petitioner was not named in the FIR and later on, his name surfaced in the disclosure statement suffered by co-accused Kulbir and the petitioner was arrested on 18.10.2021 but no weapon was recovered at the instance of the petitioner. State counsel further

apprised the Court that during trial, all the material witnesses are examined and the allegations against the petitioner are that at the time of the occurrence, the petitioner along with other accused persons had broken the main door of the house of the complainant and thereafter, his companions trespassed into the house of the complainant.

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

6. Admittedly, the petitioner was not named in the FIR and his name figured in the disclosure statement made by co-accused Kulbir and thereafter, he was arrested on 18.10.2021. Relevance and veracity of the alleged disclosure statement made by co-accused against the petitioner will be tested during trial. Even otherwise, as per the said disclosure statement, only allegations against the petitioner are that he helped other accused persons in breaking open the main door of house of the complainant and no other specific act has been attributed to the petitioner and during investigation, no incriminating article is stated to have been recovered at the instance of the petitioner. As has been informed by the State counsel, all the material witnesses are already examined. The exact complicity of the present petitioner will be established at the time of final arguments before the trial Court. The petitioner who is stated to be involved in one another case is enlarged on bail in that case. In the given circumstances, no useful purpose is going to be served by keeping the petitioner in custody for any further period.

7. In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to

the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

May 30, 2023
Paritosh Kumar

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