

CRM-M-43819-2023

2023:PHHC:137258

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(223)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-43819-2023

Date of Decision: 19.10.2023

CHANDER AND ANOTHER

... Petitioners

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Keshav Partap Singh, Advocate
for the petitioner.

Ms. Ramta K Chaudhary, DAG, Punjab.

Mr. J.S. Hooda, Advocate
for the complainant.

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.188 dated 21.06.2023 registered under Sections 148, 149, 307, 427, 120-B IPC, 1860 and Section 25 of Arms Act, 1959 at Police Station Hassanpur, District Palwal.

2. At the very outset, the learned counsel for the petitioners wishes to withdraw the petition qua petitioner No.2-Dhani Ram son of Kishan Singh.

3. Ordered accordingly.

4. The present FIR came to be registered at the instance of Tikaram Hooda son of Jawaharlal who stated that he was a lawyer by profession and practized at the District Courts, Palwal. On 20.06.2023 at about 10.05 PM, while he was travelling in his car bearing No.HR-50F-4550 along with his

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gunman, Sonu son of Devi Singh, Harender son of Mohan and Narender son of Dharam Singh then near Abbas Tubewell, Parmod son of Gajraj struck his car with a tractor owned by Dhani Ram with an intention to kill. Due to his, his (complainant's) car got damaged. Meanwhile, one motorcycle approached from the side and shots were fired at them (complainant party). Babita wife of Dhani Ram and Sukhbiri wife of Sanjeev were sitting with Parmod on the side of the tractor who had asked to shoot him (complainant). Due to the accident, the tyre of the tractor broke and fell along with the motorcycle. The same were handed over to the police. A WagonR Car bearing Registration No.HR-50-6147 came in which Dhani Ram and Sanjiv were sitting. From the other side, Rahul and Govinda son of Sanjiv fired shots at him (complainant) and his gunman. In his (complainant's) self-defence, he fired six rounds in the air from his licenced revolver and his gunman Tek Chand also fired a few shots from his official weapon. Parmod, his younger Dhani Ram and one son of sister (Likhi Wali) of Dhani Ram (now known to be petitioner-Chander) were also present. The accused who had fired shots sped away on two motorcycles. Earlier also cases had been registered bearing FIR No.6/2023, under Sections 380, 506 of IPC, Police Station Hassanpur, Palwal and FIR No.144/2023, under Sections 25 of Arms Act, Police Station Sadar Palwal regarding similar incidents. The nephew of Dhani Ram namely, Parmod had been released from Jail and was a part of a gang who was protected by certain police officials against whom, he (complainant) had complained to the DGP but no action was taken.

After the registration of the FIR, investigation took place and two empty cartridges of 315 bore and one empty cartridge of 12 bore were

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recovered. In addition to this, 5 empty cartridges of 32 bore were also recovered from the spot.

A red Swaraj tractor used in the commission of the crime with its front tyre broken was recovered from the spot and was found to be registered in the name of Dhani Ram.

One motorcycle used in the commission of the crime was also recovered and was taken into police possession. The said motorcycle was found to be registered in the name of Dhani Ram.

A damaged KWID car belonging to the complainant was also taken into possession at the spot.

On 23.06.2023, Dhani Ram was arrested and interrogated. He disclosed the name of his co-accused as Parmod son of Gajraj, Pawan @ Bhawan son of Jogender, Sonu son of Padam, Chander (petitioner No.1) son of Padam and Rahul son of Sanjeev. On the same day, Pawan @ Bhawan and Chander were arrested and suffered their disclosure statements. Accused Dhani Ram got recovered a Danda used in the commission of the crime and Pawan @ Bhawan got recovered a Splendor motorcycle used in the crime. The petitioner No.1-Chander also got recovered a Danda and a mobile phone.

On completion of the investigation, the report under Section 173 Cr.P.C. was presented against Dhani Ram, Pawan @ Bhawan and Chander.

On 01.10.2023, Babita wife of Dhani Ram and Sukhbiri wife of Sanjeev were arrested.

Co-accused Parmod, Rahul, Govinda, Sanjeev, Parmod, Sonu, Babli, Sonu @ Sunita, Inspector Vishva Gaurav, In-charge AVT Staff Hathin and Sahdev have not been arrested till date. During the course of

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investigation, it also transpired that the petitioner fired at the complainant and his gunman and Dhani Ram had struck his tractor with the car of the complainant. It also came to light that Pawan @ Bhawan had reced the place of occurrence and had fired at the complainant and his gunman. Accused Rahul, Govinda, Sanjeev, Sonu, Babli and Sahdev had fired at the complainant and his gunman whereas Sonu @ Sunita and Inspector Vishva Gaurav had conspired to get the complainant killed.

5. The learned counsel for the petitioner contends that the petitioner is not named in the FIR but has only been described as the son of the sister of Dhani Ram. No specific role has been attributed to him. In fact, the present FIR is a counter-blast of FIR No.139 dated 15.05.2023 got registered by Sukhbiri wife of Sanjeev against the complainant. There is a dispute between the petitioner party and the complainant party with regard to land and both sides are a part of the same family. Only a Danda has been recovered from the petitioner. As he was in custody since 23.06.2023 and none of the 16 prosecution witnesses had been examined so far, he was entitled to the concession of bail.

6. A status report dated 17.10.2023 by way of an affidavit of Suresh Kumar, HPS, Deputy Superintendent of Police, Hodal, District Palwal has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. He contends that the petitioner is an accused in four other cases bearing FIR No.6/2023 under Sections 380, 506 IPC, Police Station Hassanpur, Palwal (on interim anticipatory bail), FIR No.120/2023, under Sections 379, 506 IPC, Police Station Hassanpur, Palwal (pending before the Court of Area Magistrate, Hathin for 13.10.2023), FIR

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No.364/2023, under Sections 384, 506 IPC, Police Station Hassanpur, Palwal (On bail) and FIR No.144/2023, under Section 25 of Arms Act, Police Station Sadar Palwal (on bail). Therefore, the criminal antecedents of the petitioner did not entitle him to the grant of bail. He, however, concedes that in the instant case no specific role has been attributed to the petitioner in the FIR, he is in custody since 23.06.2023, none of the 16 prosecution witnesses had been examined so far and only a Danda has been recovered from him.

8. The learned counsel for the complainant has vehemently opposed the present petition for the grant of bail to the petitioner and states that serious allegations had been levelled against him which did not entitle him to the grant of bail.

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

9. The veracity of the prosecution case against the petitioner shall be a matter of adjudication during the course of Trial. Admittedly, the petitioner is stated to be in custody since 23.06.2023 and none of the 16 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. As such, his further incarceration is not required.

10. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Chander son of Padam Singh is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

11. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform

in writing each time that he is not involved in any other crime other than the present case.

12. If the petitioner or his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this order.

13. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- 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.

14. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

19.10.2023

JITESH

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