

CRM-M-47963-2023**IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH****CRM-M-47963-2023****Date of decision : October 31, 2023**

Pankaj

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Mayank Yadav, Advocate, for the petitioner
Mr. Vinay Phogat, DAG Haryana

KULDEEP TIWARI,J. (ORAL)

1. This first application filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in case FIR No. 24 dated 17.1.2023, under Sections 148, 149, 285, 323, 341, 427, 436, 452 and 506 IPC and 25 of Arms Act, registered at Police Station Sadar, Mahendergarh, District Mahendergarh.

2. The prosecution agency was put in motion on an information received on the intervening night of 16/17.01.2023, regarding attack upon the house of Sarpanch Ranbir Singh, resident of village Deroli Jat. On receiving the information, the police officials reached at the spot where the complainant Krishan Kumar gave written complaint to the effect that in the evening he was present at his house along with family members and DJ (disco jockey) was playing at a some distance from his house. Vikash, his worker was

going in the Pick-up truck and some persons namely Pardeep son of Rambir, Mohit son of Jagdish, Ankit son of Bhim Singh, Naveen son of Rambir, Akshay @ Tinku son of Karambir @ Lala Ram, Gaurav son of Jai Singh, Anil son of Partap, Rakesh son of Maman Ram Kapdi, Sandeep son of Ramphal Kumhar, Amit son of Rajbir Pandi, Joni son of Anurag, Rahul son of Jagdeep, Monu son of Kamal Singh, Devender @ Manded son of Prem Singh Kumhar, Ankit @ Sarpanch Nariam Ka Doyta, Sudhir, brother-in-law of Rambir and 8-10 other persons were consuming liquor in a Camper vehicle and they stopped the Pick-Up truck. When he asked them for side then they gave a hit to his Pick-up truck after starting their Camper vehicle, as a result thereof, his Pick-Up truck fell down in the ditch. The assailants also attacked upon Vikash by brick, stone, lathi, dandas etc. due to which Vikash sustained head injuries. Vikash left the pick-up truck and started running away, in the meanwhile some one fired in the air with his pistol. After some time, the assailants came near to complainant's house and attacked upon his house with lathis, dandas and stones, due to which window panes of his house were broken. They also gave a hit by their Camper vehicle to the main gate, due to which the main gate collapsed. The assailants also manhandled the family members of the complainant and the labourers who were working in the house. While leaving the spot the assailants also threatened them to kill. After some time the assailants also put on fire their liquor vend situated in village Deroli

Ahir and also gave beatings to salesman of the liquor vend. The fire of the liquor vend was extinguished by fire brigade.

3. Learned counsel for the petitioner submits that in the initial written complaint made by complainant Krishan Kumar, he only named Pradeep, Mohit, Amit, Naveen, Akshay @ Tinku, Gaurav, Anil son of Sh. Pratap, Rakesh, Sandeep son of Ramphal, Ajit, Rahul son of Jagdeep, Monu son of KamalJoni Devender, Ankit @ Sarpanch, Sudhir, JP and some unknown persons for committing the offence and no allegations were leveled against the petitioner by Krishan Kumar, rather the petitioner was shown as an eye witness to the occurrence. The police after conducting investigation, filed final report under Section 173 Cr.P.C. against Sandeep @ Kalu, Pradeep son of Sh. Rambir, Sudhir son of Sheonarayan, Jaiprakash @ J.P., Naveen etc. before the trial court and the petitioner was cited as an eye witness and his statement was also recorded under Section 161 Cr.P.C. on dated 17.1.2023. For that matter, the learned counsel for the petitioner has placed reliance upon Annexure P/2.

4. Learned counsel for the petitioner further submits that in order to aggravate the offence and to save the real culprit, the petitioner was arrested on dated 12.6.2023, on the basis of CCTV footage, where the petitioner was only shown to be present. Learned counsel for the petitioner further submits that the presence of the petitioner was never in dispute as he has been shown as an eye witness to the occurrence. The allegations that he set ablaze

the liquor vend is also an after-thought and the same carries lessor probative value.

5. Learned State counsel has placed on record custody certificate dated 30.10.2023 issued by the Deputy Superintendent, District Prison, Narnaul, which is taken on record.

6. The perusal of the custody certificate shows that the petitioner has suffered incarceration for 4 months and 18 days and he is involved in one more matter of Excise Act. However, the custody certificate shows that he is on bail in that matter. Learned State counsel, on instructions from SI Sushil Kumar, submits that the challan was filed way back on dated 1.9.2023 before the learned Illaqa Magistrate. However, no charge has been framed. The next date of hearing fixed before the learned trial court is 14.11.2023. He also informed this Court that the prosecution has cited 29 witnesses in the final report.

7. Considering the fact that the trial is at the very initial stage and charges are yet to be framed. The petitioner was in fact involved in the present FIR at a belated stage. This Court considering the incarceration suffered by the petitioner and the gravity of the offence, deems it appropriate to grant the benefit of regular bail to the petitioner.

8. In sequel to the aforesaid, the present petition is allowed. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief

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Judicial Magistrate/trial Court/Duty Magistrate.

9. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

October 31, 2023
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(KULDEEP TIWARI)
JUDGE

<i>Whether speaking/reasoned ?</i>	<i>Yes/No</i>
<i>Whether Reportable ?</i>	<i>Yes/No</i>