

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No. 211

CRM-M-55066-2023

Date of Decision-08.11.2023

Rajender Prasad

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present:- Mr. P.S. Ahluwalia, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

Mr. APS Deol, Sr. Advocate with
Mr. Gurfateh Singh, Advocate and
Mr. Karan Kalia, Advocate
for the complainant.

HARPREET SINGH BRAR, J. (ORAL)

1. This petition has been filed under Section 439 Cr.P.C for grant of regular bail to the petitioner in case FIR No.199 dated 20.07.2023 registered under Sections 307 and 323 of IPC, 1860 and Sections 27, 54, 59 of the Arms Act (Section 325 IPC was added later on and Sections 148, 149 of IPC and 25 of Arms Act were deleted) at Police Station Nangal Chaudhri, District Mahendergarh.

2. The FIR was registered with regard to the occurrence which have taken place on 20.07.2023 at about 9:00 AM when the petitioner along with others were alleged to have brought JCB at the spot and started demolishing the houses of the complainant party and during the occurrence, the petitioner is alleged to have taken out his pistol and fired a shot with intention to kill the uncle of the complainant namely Luxmi Narayan which passed near the ear of Luxmi Narayan and one shot hit the left foot of Luxmi Narayan.

3. Learned counsel for the petitioner inter alia contends that the present case is a case of version and cross version. Infact, the petitioner himself suffered ten injuries and the licensed weapon of the petitioner was snatched by the complainant party and as per the final report, the complainant namely Subhash Kumar had produced the pistol of the petitioner before the investigating officer. He has referred to the relevant portion of the final report in order to substantiate his arguments. He has further submitted that petitioner is behind the bars since 20.07.2023 and the conclusion of trial is likely to take long time.

4. Per contra, learned Senior counsel for the complainant has opposed the prayer for grant of bail to the petitioner on the ground that the petitioner has taken the law into his hands and has tried to demolish the house of the complainant party and the entire incident was captured in CCTV cameras and as such, being a Sarpanch of the village, he is supposed to abide by the rule of law.

5. Learned State counsel, on the other hand, opposes the prayer for grant of regular bail to the petitioner on the ground that the demolition drive to vacate the illegal possession of the Panchayat land had taken place on 06.07.2023 and there were no official drive on 20.07.2023 when the occurrence had taken place.

6. Heaving heard the learned counsel for the parties and the record of the case was perused with able assistance of the learned counsels for the parties.

7. In the present case, the challan was presented on 12.10.2023 and the challan in the cross case registered against the complainant party was presented on 27.10.2023. The investigation is complete. The trial of

the case is yet to commence and it is likely to take long time to conclude.

It would be a moot point to be determined by learned trial Court on the basis of evidence adduced by the parties as to which party is the aggressor and also the petitioner has acted in his right to private defence or not.

8. Keeping in view, the facts and circumstances of the case, the present petition is allowed without commenting further on the merits of the case lest it may prejudice the outcome of the trial, the petitioner- Rajender Prasad is ordered to be released on bail subject to his furnishing adequate bail/surety bonds to the satisfaction of the concerned Chief Judicial Magistrate/Duty Magistrate.

9. Nothing observed herein above shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

08.11.2023
yogesh

(HARPREET SINGH BRAR)
JUDGE

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