

CRM-M No. 56262 of 2023 (O&M)

-1- 2023:PHHC:149042

127+299

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No. 56262 of 2023 (O&M)

Date of Decision:- 22.11.2023

SHAMSHER

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Deepanshu Matya, Advocate
for the petitioner.

Mr. Surender Singh, AAG, Haryana.

.....

SANJIV BERRY, J. (ORAL)

CRM No. 48100 of 2023

Application is for grant of interim bail to the applicant-petitioner.

2. Learned counsel for the applicant-petitioner submits that he does not want to press the interim bail application and intends to address the arguments on the main petition.

3. Application is accordingly disposed of as not pressed.

Main case

1. The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail to

the petitioner in case FIR (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
329	04.11.2022	148, 149, 323, 324, 427, 452, 506, 325, and 307 IPC	Nagina, District Nuh.

2. It is inter alia contended by learned counsel for the petitioner that the instant FIR was got registered by the complainant party against 66 persons due to party faction in the village and infact a cross version was also registered against the complainant party vide FIR No. 348 dated 18.11.2022 under Section 323, 324, 34, 506 IPC, Police Station Nagina (Annexure P-2). During the course of the investigation the police found as many as 47 persons to be innocent. He refers to the Medico Legal Report of Deen Mohammad to say that the injuries sustained by him are reported to have been caused from the blunt weapon and declared simple and the same happens to be the alleged injury attributed to the petitioner. He submits that the injury on the ribs has been declared to be dangerous to life but the same is not attributed to the petitioner but to the co-accused Shakil, Jamshed and Nazar Mohammad. He submits that the petitioner is in custody since 06.08.2023 and the challan has already been presented against the petitioner. He submits that many of the co-accused have already been granted concession of bail and in this context he has referred to order dated 29.08.2023 (Annexure P-15), dated 11.09.2023 (Annexure P-16) whereby Bashir Ahmed and Ayyub Khan have been granted bail by this Court in CRM-M-41614 of 2023 and CRM-M-35287 of 2023 respectively. He further submits that some of the co-accused have been granted concession of anticipatory bail as well as regular bail by the learned Sessions Court. He

submits that the marriage of the daughter of the petitioner is fixed for 01.12.2023 and as such he prays for grant of concession of bail to the petitioner.

3. On the other hand, learned State counsel has opposed the bail application by arguing that the petitioner being member of unlawful assembly, armed with deadly weapons has caused injuries to the complainant party, specifically to Deen Mohammad, as such he does not deserve concession of bail. However, he admitted that the injury attributed to the petitioner on the person of Deen Mohammad is not the injury which is declared dangerous to life. He also admitted the cross version of the FIR already registered bearing FIR No. 348 (supra) against the complainant party.

4. Briefly stated the case of the prosecution is that the instant FIR was registered by complainant Ausaf claiming that his cousin had been elected as Sarpanch of village and due to this the accused party armed with deadly weapons had forcibly entered their house and gave beatings whereby accused Sahid gave blow of iron rod on the head of complainant, Shakeel gave lathi blow on his forehead, Saleem gave lathi blow on his face while accused Osama gave lathi blow on his nose. As per complainant, accused Iqbal gave lathi blow on his left leg and accused Shamsher gave farsa blow on his left leg while accused Idrish and Fakru damaged the motor-cycle. The matter was reported to the police and the injured were shifted to the hospital.

5. After considering the rival contentions and perusing the record, it is not disputed that the instant FIR was originally registered against 66 persons and during the course of investigation 47 persons have been found

to be innocent. The role attributed to the petitioner is that he caused injury on the left leg of injured Deen Mohammad. It is not disputed that this injury has been declared as simple in nature. Admittedly the injury which has been declared dangerous for life has not been attributed to the petitioner. After the completion of investigation, challan has already been presented in Court and trial is going on. The petitioner is in custody since 06.08.2023, and conclusion of trial to ascertain the criminal liability, if any, to the petitioner will take sufficient long time. Considering the nature of injuries and antecedents of petitioner no purpose would be served by detaining the petitioner any longer, as his further incarceration will not served any useful purpose.

6. Consequently, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

7. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

22.11.2023

Gyan

- i) Whether speaking/reasoned?
- ii) Whether reportable?

Yes/No
Yes/No