

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.24381 of 2024(O&M)
Reserved on: 06.08.2024
Pronounced on: 30 .08.2024

Dharmender @ Dhammal ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Jai Vir Yadav, Sr. Advocate with
Mr. Aman Gautam, Advocate and
Ms. Parul, Advocate
for the petitioner.

Mr. Rajat Gautam, Addl. A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
163	25.05.2019	City Rewari, District Rewari	148, 149, 302, 307 IPC and 25 of Arms Act

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, 1973, seeking regular bail.
2. As per paragraph 15 of the bail petition, the accused declares that he has no criminal antecedents. However, as per reply/custody certificate, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	304/2020	--	Under section 42-A of Prisons Act	Bhondsi, Gurugram

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“5.That the facts forming the genesis of the FIR aforementioned are that the law was set in motion on the complaint of Mahesh Saini, wherein he contended that on the fateful day i.e. on 25.05.2019 at around 08 pm he was present at his liquor shop and his friends Ajit, Dinesh had taken his vehicle no.HR-36AE-2005 for some work and at around 9:00 p.m. Titu Thakur, Sunil Jalalpur and Anil had visited his house and had told the complainant that the persons who were sitting in his vehicle had been involved in an



altercation with their accomplices Hanuman and Ombir, residents of Asalwas and had caused injuries to them. The complainant contended that he expressed ignorance about any such occurrence and thereafter he telephonically contacted Ajit and Dinesh aforementioned and questioned them regarding the altercation, on which it transpired that Dinesh, Ajit, Leon and Manish had caused injuries to Ombir and Hanuman. The complainant Mahesh Saini tried to work out a compromise on which Titu etc. left the spot and thereafter the complainant alongwith Naveen, Manish was present in front of his house alongwith Aditya and Dinesh and was in conversation with them and at around 10:30-11:00 p.m. one Scorpio vehicle bearing no.HR-81-1114 or 1411 came there and in the said vehicle the Dharampal was occupying the conductor seat and the petitioner was also present alongwith 5-7 young boys. The vehicle stopped near the complainant and others and Dharampal and the petitioner aforesaid were holding country made weapons while the others were holding iron rod and lathi. Dharampal exhorted that he shall teach them a lesson for having caused injuries to his brothers Hanuman and Ombir and Dharampal fired a shot towards the complainant from his country made weapon, whereas petitioner fired a shot at Aditya. The fired shot by the petitioner on Aditya hit him on the left side of Chest and Aditya was assaulted by Dharampal and his other accomplices and thereafter Dharampal alongwith the other accused fled the spot. On the basis of these allegations, FIR was registered and investigations were taken up in the matter.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

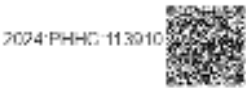
5. The State's counsel opposes bail and refers to the reply.

6. It would be appropriate to refer to the following portions of the reply, which read as follows:

“8 That apart from the disclosure statement, the complicity of the petitioner was spelt out by the witnesses Manish S/o Yogender, Naveen @ Ganja, Himanshu @ Sonu, Jai Parkash S/o Udaybhan and Dinesh @ Sunda S/o Hetram in their respective statements under Section 161 Cr.P.C. which are being appended to alongwith the present affidavit as Annexures R4 to R8.

13. That the petitioner had played an active role in the commission of the crime. As per the disclosure statement of the petitioner as well as that of the co-accused, the petitioner had used the weapon at the time of occurrence which had been thereafter handed over by him to Baba Aditya Nath and thereafter the petitioner alongwith the other co-accused fled the place of occurrence.

14. That the petitioner is the prime accused in the case comm having fired at the deceased from point blank range. The allegations against him are serious in nature. Further apart from the present case, other criminal cases were also registered against him vide FIR No.148 dated 14.07.2014 registered for the commission of offences punishable under Sections 147/149/323/325/ IPC at Police Station Rampura, District Rewari (Acquitted in terms of judgment dated 08.12.2014 as passed by the Court of the then Ld. JMJC, Rewari) and FIR No.304/2020 registered for commission of offence punishable under Section 42-A Prisons Act, P.S. Bhondsi, Gurugram. The custody certificate of the petitioner is being appended to as Annexure R-9 alongwith the present affidavit.”



- 7. Although the prosecution witnesses, whose statements are annexed to the petition, including PW-5 Dinesh, have turned hostile, other relevant evidence cannot be discarded. A perusal of the bail petition and the documents attached prima facie points towards the petitioner’s involvement and does not make out a case for bail. Petitioner’s custody of five years is not prolonged because the minimum sentence that is attracted is imprisonment for life. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.
- 8. The trial is in advance, and any observation by this court at this stage might prejudice the prosecution, complainant, or the accused.
- 9. Given the above, the petitioner fails to make a case for bail.
- 10. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
- 11. Petition dismissed.

(ANOOP CHITKARA)
JUDGE

30.08.2024
Sonia Puri

Whether speaking/reasoned: Yes
Whether reportable: No.