

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

233

CRM-M-24831-2024  
Date of decision : 22.05.2024

Lokesh @ Lokesh Kapasiya ..... Petitioner

versus

State of Haryana ..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

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

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

\*\*\*\*\*

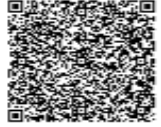
PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.377 dated 29.09.2023, registered for the offences punishable under Sections 307, 325, 506 and 34 of IPC, 1860 and Section 25 of Arms Act, 1959 (Sections 325 and 506 of IPC added later on) at Police Station Sadar Ballabgarh, District Faridabad.

2. FIR was registered on the statement made by one Mahesh Nagar, alleging as under:-

“It is stated that am resident of the aforesaid address. I was coming from the side of village Bukharpur. Prince son of Bhupender, resident of Nawada was also with me. We both were going on Motorcycle Splendor No.HR-29 AU 0817 alongside Railway Track via Kacha Rasta to our village. about 2.30 PM, when we At reached near Railway

2024:PHHC:072731



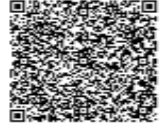
Bridge, Bukharpur, a black coloured Baleno car came from behind and hit us, thereafter the car dragged our motorcycle to a considerable distance, getting down from the after car, (complainant) was hit on his right hand and leg, with an rod and also hit rod on the feet of Prince. The same persons ns with intention inte to kill fired a bullet on Prince. In the Baleno car, Sonu Mujedi, Dholu Nimka, Lokesh Mujedi, Lamba Ballabgharh were saying that today you have been saved, in future we would kill you. I have recorded my statement, read and the same is correct.”

3. On 28.09.2023, after 3 days i.e. on 02.10.2023, complainant is alleged to have made supplementary statement wherein he named the present petitioner and stated as under:-

“Statement of Prince son of Bhupender, resident of village Nawada, BLB Faridabad, under Section 161 Cr.P.C.

It is stated that I am resident of the aforesaid address and do agriculture work. On dated 29.9.23 at about 2.30 PM, I and Mahesh had been going on my motorcycle from Bukharpur via Railway Bridge on Kucha Rasta to our village. From behind a Baleno car of black colour came and hit with pressure from back in our motorcycle and kept us while pulling. The motor cycle was being driven by Mahesh. Mahesh ran away immediately. From car, Sonu Bhujedi, Lokesh, Sumit @ Lala Mujedi, Nitesh Lamba Ballabgharh, when Gholu Neemka started climbing on the Railway Patri towards north, these people told me that we would shot you. Two bullets have been fired on my foot from behind and I had fallen there itself. Sonu, Lokesh,

2024:PHHC:072731



Sumit, Nitesh Lamba hit rod on both my feet and hands and Gholu was having pistol in his hand. At the same time, on seeing the passersby there, all these people after threatening me to kill, went away from there. These people also caused beatings to Mahesh. I have got my statement recorded, which has been read over and heard and understood, which is correct.”

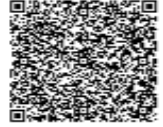
4. Counsel for the petitioner submits that the petitioner was though named in the FIR, but no role was attributed to him. However, the same was attributed 03 days thereafter in supplementary statement thus, concoction cannot be ruled out. Challan already stands presented. Thus, the custody of the petitioner should not be allowed to be prolonged.

5. State counsel has produced the custody certificate. As per the same, by now the petitioner has undergone actual custody of more than 07 months and 02 days. State counsel has opposed the bail plea on the ground that the petitioner is facing 04 more cases.

6. Faced with the situation, counsel for the petitioner has relied upon following observations made in the case of '**Prabhakar Tiwari vs. State of U.P.**' reported as (2020) 1 RCR (Cri.) 831:-

“6. In the case of [Mahipal Vs. Rajesh Kumar @ Polia & Anr. \(Criminal Appeal No.1843](#) of 2019) decided on 5 th December, 2019, a coordinate Bench of this Court has discussed the scope of jurisdiction of the appellate Court in setting aside an order of granting bail. The two key factors for interfering with such an order are non-application of mind on the part of the Court granting bail or the opinion of the Court

2024:PHHC:072731



in granting bail is not borne out from a prima facie view of the evidence on record. In the case of Maulana Mohammed Amir Rashadi vs. State of Uttar Pradesh and Another [(2012) 2 SCC 382], a two Judge Bench of this Court declined to interfere with an order of the High Court granting bail to an accused having considered the factual features of that case.

7. On considering the submissions of the learned counsel for the parties. Having regard to the circumstances of this case, in our opinion, there has been no wrong or improper exercise of discretion on the part of the High Court in granting bail to the accused. The factors outlined in the case of Mahipal (supra) for testing the legality of an order granting bail are absent in the order impugned. The materials available do not justify arriving at the conclusion that the order impugned suffers from non-application of mind or the reason for granting bail is not borne out from a prima-facie view of the evidence on record. The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail. The High Court has exercised its discretion in granting bail to the accused Vikram Singh upon considering relevant materials. No ex-facie error in the order has been shown by the appellant which would establish exercise of such discretion to be improper. We accordingly sustain the order of the High Court granting bail. This appeal is dismissed.”

7. Having heard rival contentions of the counsel representing the parties, after carefully going through the records of the case, without

2024:PHHC:072731



commenting on the merits thereof, keeping in view the incarceration already suffered by the petitioner, the nature of allegations and the fact that no role was assiged to him in the initial version, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

8.           Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

(PANKAJ JAIN)  
JUDGE

22.05.2024  
Dinesh

|                             |     |
|-----------------------------|-----|
| Whether speaking/reasoned : | Yes |
| Whether Reportable :        | No  |