



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
206
CRM-M-26914-2024 (O&M)
Date of decision : 31.05.2024

Sonu @ Samay @ Samay KapasiyaPetitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

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

Mr. Ramesh Kumar Ambavta, AAG, Haryana
with ASI Satbir.

PANKAJ JAIN, J. (ORAL)

1. This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.377 dated 29.09.2023 registered for the offences punishable under Sections 307, 325, 506, 34 of the IPC and Section 25 of Arms Act, 1959 (Section 325 and 506 IPC added later on) at Police Station Sadar Ballabgarh, District Faridabad.
2. Custody Certificate of the petitioner has been filed today in Court. The same is taken on record.
3. FIR was registered on the statement made by Mahesh Nagar son of Gajraj Singh who alleged as under :

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“xxx 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. At about 2.30 PM, when we reached near Railway Bridge, Bukharpur, black coloured Baleno car came from behind and hit us, thereafter the car dragged our motorcycle to a considerable getting distance, after down from the car, I (complainant) was hit on his right hand and leg, with an rod and also hit rod on the feet of Prince. The same persons with intention to kill fired a bullet on Prince. In the Baleno car, Sonu Mujedi, Dholu Nimka, Lokesh Mujedi, Lamba Ballabhgarh were saying that today you have been saved, in future we would kill you. I have recorded by statement, read and the same is correct.xxx”

4. Counsel for the petitioner while referring to the contents of the FIR would submit that the petitioner was not named in the FIR. His name was disclosed after three days by one of the injured persons namely Prince son of Bhuepender alleging as under :

“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 Ballabhgarh, 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, 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

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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.”

5. He further submits that as per the medico legal report of Prince placed on record as Annexure P-3 there is only one injury on the left foot which reads as under :

CLW OF SIZE 1CM X0.3 CM PRESENT ON DORSUM OF LEFT FOOT WITH SWELLING PRESENT.

6. It is highly improbable that one injury has been attributed to 3 different persons namely Nitesh, Sumit and the present petitioner Sonu. Challan stands presented and there are 19 cited witnesses. The petitioner is behind bars for more than 07 months and 12 days and thus the trial is not likely to conclude in the near future.

7. State Counsel is not in position to dispute the factual assertions made by counsel for the petitioner based on record.

8. I have heard counsel for the parties and have gone through records of the case.

9. Without commenting on the merits of the case, keeping in view the incarceration already suffered by the petitioner and the fact that the investigation already stands concluded and Challan stands presented, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

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10. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.
11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

31.05.2024
Dinesh

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No