



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

244

CRM-M-35506-2024
Date of decision: July 31st, 2024

Jawahar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Deepender Singh, Advocate
for the petitioner.

Mr. Gagandeep Singh Chhina, Assistant Advocate General,
Haryana.

Mr. Kunal Dawar, Advocate
for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) in case FIR No.72 dated 18.03.2021 under Sections 148, 149, 302, 323, 506 (Sections 325, 326, 34 added and Sections 148, 149 deleted later on) of the IPC and Section 25 of the Arms Act, 1959, registered at Police Station Chand Hut, District Palwal.

2. Learned counsel for the petitioner submits that the petitioner has been in custody since 21.03.2021. While drawing the attention of this Court to the FIR, which has been annexed as Annexure P-1, learned counsel has submitted that the petitioner was allegedly armed with a stick at the time of the alleged occurrence; the petitioner had been attributed simple injuries on the person of the deceased and grievous injuries on the person of witness Sahil.

Firearm injury which proved to be fatal for the deceased was attributed to co-accused Raj Kumar, whereas an incised wound on the head of the deceased has been attributed to co-accused Vikas Kumar. Learned counsel has submitted that since all the material witnesses i.e. the complainant, who allegedly witnessed the crime in question, Sahil, alleged stamped witness and one injured, had already been examined, further incarceration of the petitioner, who admittedly has no criminal antecedents, would serve no useful purpose as 40 prosecution witnesses still remain to be examined and hence, the trial would take considerable time to conclude.

3. Learned State counsel assisted by learned counsel for the complainant have, however, vehemently opposed the prayer made by the counsel opposite. It has been submitted that the petitioner along with his entire family had attacked the complainant party with lethal weapons, as a result of which one Kehar Singh lost his life and another person received various injuries on his person; the deceased sustained as many as 18 injuries on his person. Learned State counsel, however, on instructions, has not been able to dispute that all the material witnesses in the present case stand examined, coupled with the fact that the petitioner has no criminal antecedents. Learned State counsel, on instructions, has also not disputed the custody period of the petitioner.

4. I have heard learned counsel for the parties and perused the material placed on record.

5. The following allegations were levelled against the petitioner in the FIR in question, which is reproduced as under:-

“To The S.H.O. Police Station Chandhut. Subject: Legal action against 1.Rajkumar, 2. Tej Singh 3.Jawahar sons of Radhe Lal, 4. Vikas son Jawahar 5. Trivoni wife

Jawahar, 6.Jyoti wife of Tej Singh All residents of Ganniki. Sir, I, Lalit son of Kehar Singh am permanent resident of village Ganniki. Today at about 7.30 PM in the evening I was present at my house, when I heard a noise from outside, after hearing the noise I went outside in the Chowk and saw that Rajkumar had a country-made weapon in his hand, Tej Singh had an axe/kulhari in his hand, Vikas had Farsha in his hand, Jawahar had a danda in his hand, Trivoni had an axe/kulhari in her hand and Jyoti had a stick in his hand, all these were in the Chownk hurling abuses to my father Kehar Singh and my brother Sahil, I told them from a distance not to abuse, then Rajkumar said kill them and in the meantime Rajkumar shot my father directly in the chest with his made pistol carried in his hand, due to which my father fell on the spot and Rajkumar fired the second bullet directly towards me with an intention to kill me, however I escaped and then Vikas gave Farsha blow on the head of my father lying on the ground, Tej Singh hit kulhari blow directly to the shoulder of my father, Jawahar and Jyoti gave sticks blow to my father. On hearing this noise, my sister-in-law (Bhabhi) Manisha also reached on the spot and along with her my mother Kanchan also reached to the spot and they also saw this incident with their own eyes. When my brother Sahil ran to save father, then Tejsingh, Vikas, Jawahar, Trivoni, and Jyoti gave many injuries to my brother Sahil with the weapons carried in their hands, when my Bhabhi Manisha ran in order to save Sahil, then Trivoni gave kulhari blow carried in her hand to my Bhabhi directly on her hand, due to fear my mother was hiding with me. My father has died due to the injuries inflicted on him by the accused and due to serious condition of my brother Sahil he has been referred from Government Hospital Palwal to higher Center. Action be taken against the accused. My Bhabhi Manisha also received first aid in government hospital Palwal. Action be taken. Accused Rajkumar openly threatened that if anybody gave witness against us then we will kill them.”

6. The trial is unlikely to conclude in the near future as 40 prosecution witnesses still remain to be examined. All the material witnesses including the complainant and injured witnesses have been examined.

7. In the facts and circumstances as enumerated hereinabove, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

8. Needless to say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

July 31st, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No