



CRM-M-37098-2024

[1]

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

[234]

CRM-M-37098-2024

Date of decision: 07.08.2024

Rahul @ Rahul Tanwar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Pratham Sethi, Advocate for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. Present petition has been filed under Section 483 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, for grant of regular bail to the petitioner in case FIR No.214 dated 01.08.2023 for offences punishable under Sections 148, 149, 186, 323, 353, 302, 307, 427, 452, 436, 153-A of Indian Penal Code, 1860 and Section 25(1-B)(a) of the Arms Act, 1959, registered at Police Station Sector-56, District Gurugram(Sections 109/120-B of the IPC, 1860 & Section25(1A) and 27 of the Arms Act, 1959 added later on).

2. Learned senior counsel for the petitioner, at the outset, has drawn the attention of this Court to the allegations levelled against the petitioner in the FIR, which has been annexed as Annexure P-1, and submits that a perusal of the FIR reveals that though the petitioner's presence is shown at the time of the alleged occurrence, however, there is no specific attribution levelled qua him. It has also been submitted that it is not the case of the prosecution that the petitioner had either



fired towards the complainant party or even inflicted any injury upon them. In support, learned counsel has also drawn the attention of this Court to the relevant portion of the FIR wherein it has been merely stated as thus:-

“...Upon looking at the persons in the crowd, they were found as Ankit son of Raghubir, Rahul son of Shyamlal, Amra son of Ompal, Chaman son of Sattu, Nikku @ Langda, Naveen son of Dulla, Manpreet @ Mannu and Lakshman @ Lucky residents of Village Tigra and Naveen and Twinkle residents of Nathupur.”

3. Learned senior counsel has therefore submitted that the petitioner's false implication in the present case is evident and even for the sake of the arguments though not conceded, that the petitioner was indeed present at the place of occurrence, there was no material collected by the Investigating Agency which could in any manner link the petitioner with the crime in question, as it was not even the case of the prosecution that he had indulged in any acts of vandalism or rioting. It has still further been submitted by the learned counsel for the petitioner that 07 prosecution witnesses out of the 63 cited, which also includes the complainant have been examined before the trial Court; the complainant failed to identify the petitioner before the trial Court. It has therefore been submitted that further incarceration of the petitioner in the aforementioned facts and circumstances of the present case, would serve no useful purpose as the trial would take considerable time to conclude moreso when the petitioner has no criminal antecedents.

4. *Per contra*, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, has



also drawn the attention of this Court to the allegations levelled in the FIR which are reproduced as under:-

“...Sir, Today on dated 01.08.2023, myself Assistant Sub Inspector alongwith Constable Sandeep No. 1973/GGM, HGH Vikram No. 471 were on duty alongwith staff of ERV 294, consisting of EHC Sonu No. 3639, Constable Pawan No. 5219, SPO gajraj No. 2557 and rider staff 03 consisting of Constable Mandeep No. 5214 and SPO Dharambir No. 1079 apprehending communal violence at Anjuman Masjid, Sector-57, Gurugram It will be 12:15 AM that the crowd of 90-100 persons, who have covered their faces with clothes and were armed with laathi, danda and weapons in their hand and were raising slogan of Jai Sri Ram came at Anjuman Masjid, Sector-57, from the side of Boom Plaza. They surrounded the mosque from all 4 sides. They pelted stones and fired on the police party, who was present on the spot to prevent the violence. Then Assistant Sub Inspector Inder Singh alongwith accompanied employees started rescue work. The crowd was huge and furious and went ahead. In the meantime, I came to know that the mosque has been set on fire. Therefore to immediately control the fire, I went alongwith accompanied officials ahead. From the other side, some persons entered into the mosque and started firing their weapons. Mohd. Saad son of Mohd. Mustaq resident of Ward No.8, Village Pandol Tole Maniyadih, Police Station, Nanpur, District Seetamadi, Raipur, Bihar have suffered multiple injuries in the violence. Khurshid Alam son of Ayub resident of Ward No.2, Afroj Tola, Village Dhapi Anchal, Joki Haat Kakan, District Arhariya, Bihar has suffered bullet injury at his foot and they have been rescued from mosque along with with Izhar son of Yakub resident of Village Bahri Police Station Bahri District Balia, Uttar Pradesh and Sahabudin son of Mohd. Sadeeq resident of Mohalla Apparkot, Bulandshahar Police Station Kotwali District Bulandshahar, U.P with the assistance of alongwith accompanied employees. Mohd. Saad son of Khurshid Alam who had suffered injury was sent nearby W-Partiksha Hospital with the assistance of ERV 0294 which



was present on the spot. Control room Gurugram, Fire Brigade, Station House Officer of the Police Station as well as the senior officers have been informed about the situation. In short while, the Station House Officer along with police force has reached on the spot. Then the furious crowd on the spot was scattered. Upon looking at the persons in the crowd, they were found as Ankit son of Raghubir, Rahul son of Shyamlal, Amra son of Ompal, Chaman son of Sattu, Nikku @Langda, Naveen son of Dulla, Manpreet @ Mannu and Lakshman @ Lucky residents of Village Tigra and Naveen and Twinkle residents of Nathupur. I was busy in the rescue work with the assistance of Station House Officer of Police Station, Assistant Sub J Inspector Inder Singh and alongwith accompanied employees. When, fire brigade came on the spot, the fire was controlled after long time. In the meantime, a phone call has been received from WPritiksha Hospital that Mohd. Saad son of Mohd. Mustaq resident of Ward No.8, Village Pandol Tole Maniyadih, Police Station, Nanpur, District Seetamadi, Raipur, Bihar has been died after suffering injuries in the violence. The information in this regard has been given by night MHC C. Khushi Ram No. 3925/GGM to Assistant Sub Inspector Inder Singh. Ankit son of Raghubir, Rahul son of Shyamlal, Amra son of Ompal, Chaman son of Sattu, Nikku @ Langda, Naveen son of Dulla, Manpreet @ Mannu and Lakshman @ Lucky residents of Village Tigra and Naveen and Twinkle residents of Nathupur in connivance with their 90-100 other persons have spread violence, have caused damage to the mosque and set the same on fire, done firing and then done firing on the police party with intention of killing them, inflicted injuries to Mohd. Saad and committed the murder of Mohd. Saad and thus have committed an offence under section 148/149/186/323/353/302/307/427/452/436/153A of IPC Constable Sandeep No.1973/ Gurugram to the Police Station. After the registration of case, number of FIR be informed. Special reports of the case be sent to the Senior Officers and Illaqa Magistrate. For conducting further investigation, competent officer be sent on the spot and Scene of Crime



Team be sent on the spot. At Anjuman Jama Mosque, Sector-57, Gurugram. Sd/- Inder Singh Assistant Sub Inspector, Police Station Sector-56, Gurugram. Dated 01.08.2023. At 8:15 AM. From Police Station:-Upon receiving the above said writing in the Police Station, above said FIR has been registered under the above said offences....”

5. Learned State counsel however, on instructions, has not disputed the submissions made by the learned counsel for the petitioner qua the complainant not identifying the petitioner before the trial Court much less attributing any specific role to him in the crime in question. Learned State counsel, on instructions, has also not disputed that the petitioner has no criminal antecedents.

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

7. In the facts and circumstances as enumerated hereinabove, especially when the petitioner has neither been attributed any specific role in the FIR in question or even during the deposition of the complainant before the trial Court and furthermore he has not been identified by the complainant during trial as being one of the alleged assailants, this Court, thus, deems it fit to extend the concession of bail to the petitioner.

8. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his furnishing bail/surety bonds 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.



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

AUGUST 07, 2024

*Anjal**

**(MANJARI NEHRU KAUL)
JUDGE**

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No