



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

CRM-M No.39306 of 2024
Date of decision: 22nd August, 2024

Ankit

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Pratham Sethi, Advocate for the petitioner.

Mr. Karan Garg, Asst. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 483 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in case FIR No.214 dated 01.08.2023 under Sections 148, 149, 186, 323, 353, 302, 307, 427, 452, 436, 153-A of the IPC, 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 and Section 25(1A) and 27 of the Arms Act, 1959 added later on).

2. Learned counsel for the petitioner submits that a perusal of the FIR which has been annexed as Annexure P-1 reveals that other than the presence of the petitioner along with the co-accused shown at the time of the alleged occurrence there is no specific attribution levelled therein, much less that he in any manner had either instigated the co-



accused or even fired towards the deceased and the complainant party. In support, learned counsel has 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 Raghbir, 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. It has been further argued by learned counsel that although the petitioner has been falsely implicated, however, even for the sake of arguments, though not conceded, it is assumed that the petitioner was indeed present at the place of occurrence, it is the case of the prosecution itself that there were about 100 people who were present at the spot; which could not in any manner connect the petitioner with the crime in question more so when it is not even the case of the prosecution that the petitioner had indulged in any vandalism or rioting. Learned counsel has also drawn the attention of this Court to the deposition of the three material witnesses including ASI Inder Singh (the complainant), who stepped into the witness box as PW-3, and who too during his deposition did not identify the petitioner much less attribute any specific role to him in the crime in question. It has been, thus, argued that in the aforementioned facts and circumstances, since 55



prosecution witnesses still remain to be examined, further incarceration of the petitioner, who has been in custody since 01.08.2023, would serve no useful purpose, more so, when he has no criminal antecedents.

4. Per contra, learned State counsel while opposing the prayer made by learned senior counsel for the petitioner, on instructions from ASI Ami Lal, has not disputed that all the three material witnesses, who purportedly witnessed the occurrence in question, including the complainant, had since been examined by the learned Trial Court and had not identified the petitioner as being one of those persons who had fired towards the complainant party and the deceased. Learned State counsel, on instructions, has also not disputed that 55 witnesses still remain to be examined.

5. On a pointed query, learned State counsel has not disputed that the petitioner is not involved in any other criminal case.

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

7. Before proceeding further, it would be relevant to reproduce the contents of the FIR, which are 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 with 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 bridge came on the spot, the fire was controlled after long time. In the meantime, a phone call has been received from W-Pritiksha 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. Sadd 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 and 25(1b) of Arms Act. Writing is being sent through 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....”

8. In the facts and circumstances as enumerated hereinabove, more so, when the petitioner was not identified by the complainant during trial as being one of the alleged assailants, this Court deems it fit to extend the concession of bail to the petitioner.



9. 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.

(MANJARI NEHRU KAUL)
JUDGE

August 22, 2024
rps

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