



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

239

CRM-M-42233-2024

Date of decision: September 4th, 2024

Rakesh Nagar @ Rakesh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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

Mr. Yuvraj Shandilya, Assistant Advocate General,
Haryana.

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.214 dated 01.08.2023 under Sections 148, 149, 186, 323, 353, 302, 307, 427, 452, 436, 153-A, 109, 120B of the IPC and Sections 25 (1-B) (a), 25(1A) and 27 of Arms Act, 1959, registered at Police Station Sector 56, District Gurugram.

2. Learned counsel for the petitioner submits that a perusal of the FIR, which has been annexed as Annexure P-1, reveals that the petitioner was neither named in the FIR in question nor was there any whisper qua his involvement in the alleged occurrence. Learned counsel has submitted that the petitioner came to be later on implicated in the instant case on the basis of a disclosure statement allegedly suffered by one of the co-accused. It has been still further argued that even in the disclosure statement allegedly suffered by the co-accused, there was no specific attribution qua the petitioner. Learned counsel submits that in

the circumstances, more so when he has now been in custody since 01.08.2023, challan stands presented and charges framed, coupled with the fact that nine witnesses out of the 63 cited by the prosecution have been examined, his further incarceration would serve no useful purpose as the trial would still take considerable time to conclude.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has reiterated the allegations levelled in the FIR, which stands reproduced hereinunder:-

“To, the Station House Officer, Police Station, Sector-56, Gurugram. Jai hind. 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 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.”

4. Learned State counsel, on instructions, has however, not disputed the submissions made by the counsel opposite that the petitioner's name surfaced in a disclosure statement allegedly suffered by the co-accused.

5. On a further query, learned State counsel has also submitted, on instructions, that the complainant, while stepping into the witness box, had not identified the petitioner as being one of the persons, who had inflicted injuries upon the opposite party.

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

7. In the facts and circumstances as enumerated hereinabove, more so when the petitioner, as also not disputed by the learned State counsel, on instructions, has not been attributed any specific role or injury in the occurrence in question by the complainant either in the FIR or during his testimony before the trial Court, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned.

8. 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.

September 4th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No