

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44773-2024
Reserved on: 13.11.2024
Pronounced on: 29.11.2024

Dharampal ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Tanvir S. Grewal, Advocate
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
163	25.05.2019	Rewari City, Distt. Rewari Haryana	148, 149, 302, 307 & 201 IPC (Section 201 IPC added later on) and 25 of Arms Act

1. The petitioner incarcerated in the FIR captioned above came before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail by filing the sixth bail petition.
2. In paragraph 12 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“That the facts forming the genesis of the FIR aforementioned are that the law was set in motion by the complainant Mahesh Saini, wherein he contended that on the fateful day i.e. on 25.05.2019 at around 08 pm he was present at his liquor shop and his friends Ajit, Dinesh had taken his vehicle no.HR-36AE-2005 for some work and at around 9:00 p.m. Titu Thakur, Sunil Jalalpur and Anil had visited his house and had told the complainant that the persons who were sitting in his vehicle had been involved in an altercation with their - accomplices Hanuman and Ombir, residents of Asalwas and had caused injuries to them. The

complainant contended that he expressed ignorance about any such occurrence and thereafter he telephonically contacted Ajit and Dinesh aforementioned and questioned them regarding the altercation, on which it transpired that Dinesh, Ajit, Leon and Manish had caused injuries to Ombir and Hanuman. The complainant Mahesh Saini tried to work out a compromise on which Titu etc. left the spot and thereafter the complainant alongwith Naveen, Manish was present in front of his house alongwith Aditya and Dinesh and was in conversation with them and at around 10:30-11:00 p.m. one Scorpio vehicle bearing no.HR-81-1114 or 1411 came there and in the said vehicle the petitioner herein was occupying the conductor seat and co-accused Dhammal, R/o Badhrana was also present alongwith 5-7 young boys. The vehicle stopped near the complainant and others and the petitioner and Dhammal aforesaid were wielding country made weapons while the others were wielding iron rod and lathi. The petitioner herein exhorted that he shall teach them a lesson for having caused injuries to his brother Hanuman and Ombir and the petitioner fired a shot towards the complainant from his country made weapon, whereas co-accused Dhammal fired a shot at Aditya. The fired shot by the co-accused Dhammal on Aditya hit him on the left side of Chest and Aditya was assaulted by the petitioner and his other accomplices and thereafter the petitioner alongwith the other accused fled the spot. On the basis of these allegations, FIR was registered and investigations were taken up in the matter. During the course of investigation Accused Dharmender @ Dhammal was arrested on 03.06.2019. Sukhbir @ Rajender was arrested on 03.06.2019. They were interrogated and upon interrogation, they suffered their respective disclosure statements admitting their involvement in the present crime. It transpired that the weapon that had been used by the Dharmender @ Dhammal was belonging to Baba Aditya Nath who had handed it over to Dharmender and after having executed the crime, Dharmender had returned back the licensed weapon to Baba Aditya Nath. It further transpired that the petitioner alongwith Daya Ram, Baba Aditya Nath, Dhakad @ Sonu, Amit Pehalwan, Sunni, Sukhbir @ Rajender had also accompanied Dharmender @ Dhammal at the time of crime and participated in the same. Apart from that Moni, Dharambir @ Hallan, Narender, Happy, Suraj, Vinod, Dinesh were also involved in the occurrence being the

members of the unlawful assembly. Out of the persons named, the investigating agency arrested Dharambir @ Hallan, Sukhbir @ Rajender, Suraj, Happy @ Bharampal, Sandeep and Dushyant and final report qua them has already been filed in the court of competent jurisdiction. The postmortem examination is being appended to as Annexure R-2 alongwith the present affidavit for the kind perusal and ready reference of this Hon'ble Court."

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State's counsel opposes bail and refers to the reply.

6. It would be appropriate to refer to the following portions of the reply, which read as follows:

"5. That it is an undisputed position that PW Mahesh Saini and Dinesh @ Sunda have turned hostile in the matter. however, it is submitted that it is the settled position of law that even the testimony of the hostile witness cannot be thrown out and requires to be examined carefully. It is submitted that there is ample material evidence on record to connect the petitioner with the commission of the crime complained off and this being so, the present petition is devoid of any merits and the present petition is liable to be dismissed.

x x x x x

7. That the petitioner is the named accused who has been named in the FIR. He had fired a shot at the complainant."

7. A perusal of the bail petition and the documents attached prima facie points towards the petitioner's involvement and does not make out a case for bail. The impact of crime would not justify bail.

8. Regarding bail on parity, the co-accused who were granted bail were on much lower footing, and the evidence against the petitioner is that he had fired at the deceased. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.

9. The petitioner's custody of around 02 years & 09 months cannot be termed prolonged, given the minimum sentence prescribed for the offense, which is imprisonment for life.

10. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

11. **Petition dismissed.** All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

29.11.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.