

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-48598-2023

Aamin

.....Petitioner

Vs.

State of Haryana

.....Respondent

Reserved On.: 20.03.2024
Pronounced On: 01.04.2024

CORAM: - HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued By: Mr. Gautam Dutt, Advocate
for the petitioner.

Mr. Sumit Jain, Addl. AG, Haryana.

Mr. Baljeet Beniwal, Advocate
for the complainant.

DEEPAK GUPTA, J.

By way of present petition filed under Section 439 Cr.P.C, petitioner prays for his release on regular bail in case FIR No.0137 dated 24.05.2023 under Sections 148, 149, 307, 323, 506 of the IPC and Section 25 of Arms Act (Act N: 54 of 1959) [Section 325 of the IPC added later on] registered at Police Station Mundkati, District Palwal.

2. Status report by way of an affidavit dated 1.11.2023 of Shri Naresh Kumar, HPS, Deputy Superintendent of Police, Crime, District Palwal has been filed on behalf of respondent- State.

3.1 FIR was lodged on the statement of Sakeel son of Nawab, resident of Village Sarai, Police Station Mundkati, District Palwal. It was stated by him that on 23.05.2023, he, his father Nawab, elder brother Vakil, mother Ahmadi,

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sister Afrina and uncle Samsuddin, all residents of Village Sarai were laying water pipes in their field, when at about 04:00 p.m. Aas Mohd., Ahmad, Farid, Aamin (*petitioner*) and Umar Mohd. besides Jafru came in a car, armed with various kinds of weapons. Aamin was carrying a country made pistol. It is alleged that Farid pushed his sister Afrina and abused them and as they tried to save their sister, all the assailants inflicted injuries on the person of Nawab, Samsuddin and Ahmadi. It was also alleged that Aamin fired a shot at Vakil, hitting his abdomen. The injured were taken to the hospital. As the condition of Vakil was serious, he was referred to a higher center.

3.2 During investigation, an empty cartridge and blood stained earth were lifted from the spot. Car used in the crime as recovered from the spot was taken into possession. Copies of MLRs (*Annexure R-1 to R-4*) of injured Vakil, Samsuddin, Nawab and Ahmadi were collected. Vakil was further treated at Fortis Escorts Hospital, Faridabad, where he remained as an indoor patient from 24.05.2023 to 25.05.2023. Discharge summaries were collected. Aamin-petitioner was arrested on 26.05.2023 and on the basis of disclosure statement suffered by him, a country made pistol was recovered from him as used in the crime. The medical opinion regarding the nature of injuries was obtained. As per the medical opinion, the injuries of the person of Vakil were found to be simple in nature and not dangerous to life. One injury on the person of Samsuddin; two injuries on the person of Nawab and one injury on the person of Ahmadi were declared grievous; whereas, rest of the injuries were found to be simple.

3.3 After completion of investigation, final report under Section 173 Cr.P.C. has already been filed. Status report further reveals that after framing of

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the charges on 24.08.2023, one witness has been examined out of 32 witnesses cited by the prosecution.

4.1 Learned counsel for the petitioner contends that there was dispute between the parties regarding the possession over a piece of agricultural land. It is the accused party, who was in possession of that land. The land owned by Rajender had been agreed to be sold to one Subhash vide agreement dated 01.02.2019, to whom the possession was delivered and who rented out the same to the accused party. Accused party even set up a small factory of stitching of jeans over that land. It was claimed by the complainant party that Rajender later on sold the land in favour of Ahmadi & Roshni, the family members of the complainant party. Since possession was with the accused party, they were apprehending forcible dispossession and so, a civil suit for specific performance (*copy Annexure P2*) was filed by Subhash Chand, which is pending in the Court and in which restraint order (*copy Annexure P3*) was passed on 03.04.2023.

4.2 It is contended further that on 23.05.2023, more than 40 people from the complainant side came to the land in dispute. At that time, one Hardiq son of Ahmed was present at the factory, who was taken into custody by the complainant party. When Ahmed, the father of the said Hardiq came to know about his son, he reached the spot and was mercilessly beaten and on his complaint, FIR No.142 dated 24.05.2023 under Sections 148/ 149/ 307/ 323/ 379B/427/506 IPC and Section 25 of the Arm Act (*copy Annexure P5*) was registered at Police Station Mundkati.

4.3 Apart from the above, learned counsel for the petitioner has drawn attention towards the fact that four persons are stated to have been injured from

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the complainant side namely Vakil, Nawab, Samsuddin and Ahmadi and most of the injuries caused to them are simple in nature. Even Vakil, to whom petitioner is attributed to have given gunshot injury, did not sustain any injury dangerous to life, as per the medical opinion. Learned counsel contends that on the other hand, Ahmed Khan from the accused side was caused as many as 10 injuries as per the OPD Card (*copy Annexure P4*).

4.4 Learned counsel also contends that petitioner is in custody for the long time; that trial may take time to conclude; that injured Vakil has already been examined during trial and in his testimony, he has admitted the factum of the accused party being in possession of the disputed land and that in all these circumstances, petitioner be allowed bail.

5. Strongly opposing the bail petition, learned State counsel ably supported by counsel for the complainant drawn attention towards the fact that numerous injuries have been caused to Vakil, Nawab, Samsuddin and Ahmadi. Injury to Vakil was caused by firearm by the petitioner. Nawab sustained four injuries, out of which two are grievous in nature. One injury each on the person of Samsuddin and Ahmadi are also grievous in nature. Learned State counsel further contends that it is the complainant party, which was in possession of the land in dispute, pursuant to the purchase from the original owner Rajender. It is also contended that Vakil has supported the prosecution case during trial and that rest of the injured are yet to be examined and so, in all these circumstances petitioner does not deserve to be given the benefit of bail.

6. I have considered submissions of both the sides and perused the record.

7. It has not been disputed that both the parties sustained injuries.

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From the side of accused party, one Ahmad Khan was given as many as ten injuries as is evident from his OPD Card (Annexure P-4). It is a case of version and cross-version. Although it is informed during arguments by learned State counsel that FIR No.142 dated 24.05.2023 (*copy Annexure P5*) has been cancelled, as was also noted by learned Additional Sessions Judge, Palwal, but it would be a matter of trial, as to which of the party was the aggressor. It has not been disputed that it is Rajender, who was earlier owner of the land in dispute and who had agreed to sell the same vide an agreement dated 01.02.2019 to Subhash and had delivered possession to him. Said Subhash rented out the land to the accused party, over which they had set up a small factory. It is, thus, accused party, which was in possession of the land in dispute.

8. The contention of learned counsel for the complainant that the owner Rajender had delivered the possession at the time of sale to the complainant party, is subject matter of trial, as no document has been placed on record to show that Subhash, through whom the accused party claim possession, had delivered back the possession to the owner or the vendees. Besides, Subhash, in whose favour the agreement to sell had been executed by Rajender, had already filed a civil suit for specific performance on the basis of agreement dated 01.02.2019.

9. It will also be not out of place to mention that during trial, when injured Vakil entered the witness box, he admitted that it is Rajender, who was owner of the land in dispute. He did not deny that said Rajender had entered into an agreement to sell with Subhash Chand. He was also confronted with certain photographs of the disputed place and he admitted that accused party

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had established a washing plant in the disputed land as shown in the photograph. Thus, the issue as to which of the party was aggressor, is seriously in dispute, which is to be resolved after holding trial.

10. Apart from above, the medico legal report and the medical opinion would reveal that though Vakil sustained as many as three injuries including two punctured wounds with blackening and tattooing, indicating injury by firearm, but all the three injuries were opined to be simple in nature and not dangerous to life. Petitioner is in custody for the last 09 months and 23 days. Material witness Vakil has already been examined, though other injured are yet to be examined. Petitioner is not involved in any other case as per the custody certificate. There is a long list of prosecution witnesses and thus, trial is likely to take long time to conclude. No purpose shall be served by keeping him detained.

11. Having regard to all the above facts and circumstances, but without commenting anything further on the merits of the case, this petition is allowed. Petitioner is admitted to bail on his furnishing bail bonds/surety bonds to the satisfaction of the Learned Trial Court/Duty Magistrate concerned, on usual terms and conditions.

(DEEPAK GUPTA)
JUDGE

April 01, 2024

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No