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(229)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-57076-2023

Date of Decision: 24.01.2024

DHIR SINGH

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Ravi Malik, Advocate for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

Mr. Rahul Bhargav, Advocate for the complainant-

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.17 dated 16.01.2023 registered under Sections 148, 149, 323, 307, 452, 506, 201 IPC, 1860 and Section 25 of Arms Act, 1959 at Police Station Gadpuri, District Palwal, Haryana.

2. The present FIR came to be registered at the instance of Hitesh Kumar son of Sumer Singh and the same reads as under:-

"To, Chowki Incharge Dhatir. It is requested that I am Hitesh Kumar son of Sumer Singh, resident of Allika, district Palwal and work as a farmer and my uncle Hemraj son of Ramprasad and Dhirsih, son of Bharatsih Vasiyan, from village Allika had contested the election of Sarpanch, in which Dhir Singh had lost the election and my uncle Hemraj had won. On 15.01.2023, I and my uncle Hemraj, Vijay son Ramprasad and nephew Bhupendra son of of Janardhan

resident of Chandhat and my friend Deepak son of Babu, resident Allika and my maternal uncle Shyam Sundar son of Bund Singh, resident Allika, presently Allika, we all were sitting in the house built on the fields of my uncle Hemraj and talking among ourselves. At about 8.30 PM at my uncle Hemraj's house, having the rivalry of the election of Sarpanch, in front of the house of my uncle Hemraj, a car Scorpio number HR30U1001 and accused persons on two motorcycles came there, who were armed with illegal weapons and stick in their hands and from the car Scorpio, Dhir Singh son of Bharat Singh who had a big gun and Jasveer son of Deshraj had a country made pistol. Bunty son of Santram was having cudgel, Babli son of Kamal had a sharp edge weapon, Dalveer son Ramkishan had an axe. Anil son of Deshraj was having a cudgel. Akash son Ramesh had a countrymade pistol and Sumit on the motorcycle had a pistol and Nepal son of Rajpal who was on the motorcycle and had a Cudgel came and after getting down from the car and motorcycle, all the accused entered into the house my uncle and as soon as they arrived, everyone fired directly at us with their weapons with an intention to kill us. With great difficulty, we saved our lives by running here and there and when we raised the cry of mar dia, mar dia, then, many people from the village came at the spot and we caught the accused Sumit and Amit while they were running and found a pistol from Sumit's hand and the accused Sumit and Amit were injured due to running and falling. And the remaining accused, after threatening to kill us, ran away from the spot with their weapons in a Scorpio car and a motorcycle, today and I have presented my application to you along with the accused Sumit and Ameet and countrymade pistol against the above accused. Legal action should be taken. Applicant Hitesh Kumar, son of Sumer Singh, resident of Allika,

District Palwal, dt.16.01.2023, Mo. No.9991011307, Police proceedings.”

3. During the course of the investigation, a motorcycle bearing Registration No.HR 30U 1118 belonging to accused Sumit came to be recovered from the spot. A fired bullet was also taken into possession. In addition, a pistol bearing Registration No.IN GSG 19 01 11738 0.32 with two life cartridges and one used cartridge were also taken into possession.

Sumit and Amit were arrested and got recovered two life cartridges and a mobile phone.

The injured Bhupender, Deepak and Krishan were medico-legally examined and on the basis of the medical evidence, the offence punishable under Section 323 IPC added.

On 18.03.2023, the accused Nepal was arrested and interrogated.

On the completion of the investigation, the report under Section 173(2) Cr.P.C. was presented against Amit, Sumit and Nepal.

On 10.04.2023, the accused Dalbir was joined in the investigation and disclosed that he had destroyed the weapon of offence i.e. axe. Therefore, the offence punishable under Section 201 IPC was added. A DVR and a pen drive were produced by Dalbir to claim his innocence.

During the course of further investigation, Tejram @ Banti son of Antram, Jasbir son of Deshraj, Anil son of Deshraj and Babli son of Kamal were found to be innocent.

On 02.09.2023, the petitioner-Dhir Singh was arrested. He got recovered a Scorpio car bearing Registration No.HR 30U 1001.

On 03.09.2023, the accused Akash was arrested and disclosed that he had destroyed the weapon of offence. Therefore, the offence under Section 201 IPC was added.

On completion of the investigation qua the accused Dhir Singh and Akash, the report under Section 173(8) Cr.P.C. was submitted on 29.09.2023.

4. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case on account of political rivalry. Though his name figures in the FIR, no specific allegations have been levelled against him. There was an unexplained delay of one day in lodging the FIR as the alleged occurrence took place on 15.01.2023 at 08.30 PM whereas the FIR came to be registered on 16.01.2023 at 1.05 PM. Though, the petitioner was shown to have been carrying a big gun, pursuant to his arrest, no such weapon was recovered. The recovery of the Scorpio car has been planted upon him. The injured had received only simple injuries and therefore, no offence under Section 307 IPC was made out. As the petitioner was in custody since 04.09.2023 and none of the 27 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail.

5. A status report dated 06.01.2024 by way of an affidavit of Shakir Hussain, HPS, Deputy Superintendent of Police, Palwal, District Palwal has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. He along with counsel for the

complainant contend that the petitioner was the main accused. He along with his co-accused under a conspiracy and out of rivalry committed the offence in question in a well-planned manner. A Scorpio car was recovered from him. A pistol came to be recovered from co-accused Sumit. He was also a habitual offender with multiple cases registered against him. As he was a highly influential person of the village and the material witnesses were yet to be examined, he ought not to be granted the concession of bail. They however, concede that the petitioner was in custody since 02.09.2023 and that none of the 27 of the prosecution witnesses had been examined so far.

5. I have heard the learned counsel for the parties.

6. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is in custody since 02.09.2023 and none of the 27 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Dhir Singh son of Bharat Singh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the Trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.

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9. If the petitioner or his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this order.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from the trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

24.01.2024

JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No