

2024:PHHC:153235



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

101

CRM M-54665 of 2024
Date of Decision: 20.11.2024

Dharmender	Versus	...Petitioner
State of Haryana and another		... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Parveen Kaushik, Advocate for the petitioner.
(through V.C.)
Ms. Sheenu Sura, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 483(3) of Bhartiya Nagarik Suraksha Sanhita 2023 with a prayer to set aside the impugned order dated 19.10.2024 (Annexure P-2) passed by the Court of Additional Sessions Judge, Rohtak, whereby, the concession of anticipatory bail was granted to respondent No. 2, in case FIR No. 0293 dated 23.08.2024 under Sections 109(1) 190, 191(3) and 351(3) of the Bhartiya Nyaya Sanhita (BNS), 2023 and Section 25(1-B)(a) and Section 27 of the Arms Act 1959 registered at Police Station Sampla, District Rohtak (Annexure P-1).

2. The FIR in the present case was registered on the basis of the application submitted by Dharmender @ Monu son of Mahabir to the Station House Officer, Police Station Sampla and the same has been reproduced as under:-

"To Shri SHO Saheb, Police Station Sampla, Subject: Application for registering a case against 1. Deepanshu 2. Himanshu son of Munim Malik, Sunil son of Sante, Munim's mother, a boy resident of Sampla and 6-7 others for firing with the intent to kill, shooting and threatening to kill.

Sir, the applicant makes the following request

1. That it is a matter of evening today at about 5-15 p.m., I, my brother and father had come from the field near the bus stand of village Gandhara then suddenly a black car stopped and Dipanshu, Himanshu son of Munim and Sunil son of Sante resident of Gandhara and a boy from Sampla and 6-7 young boys started shooting my brother Rajiv alias Deela Pehalwan with their weapons, when I and my father Mahabir ran to save him, all the attackers fired at us, but we did not get shot due to the presence of a number of people at the chowk. From the car, Munim's mother stepped down and threatened that we have killed your lion and will not spare the rest of the family as well. The accused, while firing, threatened that they will kill the whole family. The accused have fired the bullet with the intention to kill due to old enmity and they had attacked my brother, regarding which a one sided case is registered, and due the same enmity the above accused

have fired bullet at my brother and above accused fired many fire shot with their weapons. Therefore, it is requested you to register a case against the culprits and ensure justice. Your kindness will be appreciated. SD Dharmender, applicant Dharmender alias Monu son of Mahabir R/O Gandhara".

3. Learned counsel for the petitioner contends that the respondent No. 2 had actively participated in the commission of the crime. Even as per the prosecution version, the shots were fired by the co-accused on the brother of the complainant and after that, the respondent No. 2 came out of the car and threatened the complainant side. He further contends that the respondent No. 2 is one of the main accused in the present case, who not only participated in the occurrence but also helped the other co-accused in firing shots on the brother of the complainant. Still further, Rajiv @ Deela Pehalwan, brother of the complainant was admitted in PGIMS, Rohtak and it was found that he had suffered four firearms injuries. Thus, by completely overlooking the material on record, the concession of anticipatory bail has been granted to respondent No. 2.

4. I have heard learned counsel for the petitioner and perused the record.

5. In the present case, it has been alleged that at about 05.15 p.m. on 23.08.2024, the complainant and his brother had returned from their fields and all of a sudden, Deepanshu, Himanshu, Sunil and

6/7 other young boys had started firing at Rajiv @ Deela Pehalwan, brother of the complainant. Apart from that, the other assailants had also fired on the complainant and his brother. However, the presence of the petitioner was also shown at the place of occurrence and it was alleged that she got down from the car and threatened the complainant side with dire consequences. However, it is admitted case of the prosecution that the respondent No.2 was simply present at the place of the occurrence and no overt act was attributed to her. Apart from that, learned State counsel has also informed the Court that the accused, who had fired shots, have already been arrested by the police. Apart from that, admittedly, the petitioner was simply present in the car and no recovery was to be effected from her. Still further, the order canceling the bail to an accused is a very harsh order and should not be passed by the Court in routine. In the present case, I have carefully perused the impugned order dated 19.10.2024 (Annexure P-2) passed by the Court of Additional Sessions Judge, Rohtak and found no illegality or irregularity in the same.

6. Thus, finding no merits, the present petition is ordered to be dismissed.

20.11.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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