

2024:PHHC:148303



230 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-55535-2024
DECIDED ON: 13.11.2024

TARUN

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Rishav Jain, Advocate
for the petitioner.

Mr. Chetan Sharma, DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. **Relief sought**

The jurisdiction of this Court under Section 483 of BNSS, 2023 has been invoked for the grant of regular bail to the petitioner in FIR No. 02, dated 01.01.2024, under Sections 148, 149, 323, and 341 IPC and Section 25(1-A) of Arms Act, 1959 (Sections 148 and 149 IPC deleted later on and Sections 325, 307 and 34 IPC and Section 27 of Arms Act, 1959 added later on), registered at Police Station Gadpuri, District Palwal.

2. *Facts*

Facts as narrated in the FIR reads as under:-

It is requested that I, Prem Chand son of Shri Chaman Lal, am resident of Village: Adupur, District: Palwal. On 30.12.2023, time must have been about 05:00 P.M when I received a telephone call that your brother and father are lying drenched in blood between Maheshpur and Yadupur. I immediately reached there in my own vehicle and saw

that my father and brother were lying on the road covered in blood. They were in an unconscious state. My brother had received gun shot and my father was lying covered in blood. With the help of some passersby, I got them sited in the vehicle and went to the Hospital. On the way, my father regained some consciousness and told that when they were returning after taking medicines, one vehicle from Maheshpur, whose number plate was covered with mud, blocked our way. As soon as the Motorcycle stopped, from it my Bua's son Arun son of Ganga Ram, Tarun son of Ganga Ram and Ganga Ram himself along-with 3-4 other persons got off from the vehicle and started beating us with the Hammer, Axe [Kulhadi] and Rod, which they had wielded in their hands. And when my brother Ranjeet Singh tried to save his life, then they hit him with Axe [Kulhadi] from the backside. Then he ducked and fell down. Then they started beating with Hammer and Axe [Kulhadi]. Then Tarun fired straight and thinking us to be dead, ran from there. I took them to the Govt. Hospital, Palwal. Wherefrom noticing the critical condition of my brother, they referred him further. After seeing the critical condition of brother, we got him admitted in Guru Nanak Hospital, Palwal, where he is under treatment. My brother is hanging between life and death. Therefore, it is appealed that strict legal action may be taken against the accused persons who have beaten & fired at my father and brother, and the life & property of our family be saved. We shall be highly thankful to you. Applicant: Premchand s/o Chamanlal, Vill. Adupur, 9050029373"

3. Submissions

On behalf of petitioner:

Learned counsel for the petitioner had contended that the petitioner has been falsely implicated in the present case. He submits that neither any specific role nor any injury has been attributed to the petitioner. The allegation against the petitioner is that he fired a gun shot on the person of the brother of the complainant, which hit on his thigh but later on the said injury has been declared simple in nature.

On behalf of respondent-State

Learned State counsel has produced the custody certificate of the petitioner, which is taken on record. As per the said certificate, the petitioner has suffered incarceration for a period of 8 months and 24 days as of now. He prays for

dismissal of the present petition stating that a gun shot injury has been attributed to the present petitioner and the recovery of country made pistol along-with two live cartridges as well as danda used by the co-accused of the petitioner in commissioning of offence has been effected from the house of the petitioner, meaning thereby, the petitioner is the main accused.

4. **Analysis**

Considering the fact that the petitioner and complainant party are closely related to each other being maternal uncle and nephew and two other co-accused persons namely Ganga Ram and Arun have been found innocent during investigation by the investigating agency, this Court is of the view that there may be serious doubts in the prosecution story and above all the matrimonial discord could not be controverted by learned State counsel. Further more, the injury attributed to the petitioner has been declared simple in nature and recovery has already been effected added with the fact that after the framing of charges on 09.10.2024, out of total 21 prosecution witnesses none has been examined so far, which is sufficient for this Court to infer that conclusion of trial shall take sufficient time, no useful purpose would be served by keeping the petitioner behind bars for an indefinite period, wherein “*bail is a rule and jail is an exception*” and it would also violate the principle of right to speedy trial and expeditious disposal under Article 21 of Constitution of India, as has been time and again discussed by this Court, while relying upon the judgment of the Apex Court passed in “**Dataram Singh vs. State of Uttar Pradesh & Anr**”, 2018(2) R.C.R. (Criminal) 131.

5. **DECISION:**

In view of the discussions made hereinabove, the petitioner is hereby directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

In the afore-said terms, the present petition is hereby allowed.

However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

13.11.2024
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(SANDEEP MOUDGIL)
JUDGE

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