

2024:PHHC:160982



CRM-M-56555-2024 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(206)

CRM-M-56555-2024 (O & M)
Date of decision: 03.12.2024

Yogender

..... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Abhinav Gupta, Advocate,
for the petitioner.

Mr. Ashok Singh Chaudhary, Addl.A.G., Haryana.

Mr. Prashant Singh Chauhan, Advocate,
for the complainant.

JASJIT SINGH BEDI, J. (Oral)

The prayer in this petition under Section 483 BNSS is for the grant of regular bail to the petitioner in case bearing FIR No.57 dated 15.03.2024 under Sections 147, 148, 285 and 506 IPC and Section 25 of the Arms Act, 1959 (Section 307 IPC was added later on) registered at Police Station Bawal, District Rewari.

2. The present FIR came to be registered at the instance of Karambir and reads as under:-

To, SHO, Police Station Bawal. Subject: Complaint for taking legal action against 1. Yogesh 2. Yogendra son of Mitrasen alias Gullu 3. Rajesh son of Sukhiram resident



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of Gurjar Majri 4. Ankit Bhanja of Rajesh resident of Kota and 3-4 other accused, regarding firing and threat of death and murderous attack. Sir, the applicant makes the following submissions: 1. That the applicants are three brothers, whose names are Mahendra, Karmaveer and Surendra. Surendra and Mahendra live on a tube well, the applicant lives in the village with his family. 2. That on the night of 14.03.2024, at around 10:00 PM, Yogesh, Nur og Yogendra, Rajesh, Ankit and 3-4 other accused came at the house of applicant with lathies and illegal weapons. They came out of the applicant's house with weapons and started breaking the door of the applicant's house with sticks, hearing the sound of which the applicant came out of the courtyard to the terrace and saw that the above accused shouted loudly and threatened that today they will kill me and my family and threatened to withdraw the case filed against them by the applicant's brother Mahendra and the culprits attacked with sticks due to which the gate of the applicant's house was badly damaged and meanwhile, Yogesh fired at the applicant with a pistol but the applicant narrowly escaped the attack. The culprits kept threatening to kill repeatedly. Meanwhile, the applicant's wife Sarita and son Sonu also came out of the room and neighbour Jeetram was also watching this incident standing on the terrace of his house The culprits have planned the above mentioned fatal attack on the applicant. At 10.00 PM, the applicant called PCR 112 from mobile number 9518241990 regarding the above incident, on which the police came there and the applicant told them about the above incident and also took photographs etc. The culprits are continuously threatening that they will kill the

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applicant and his family as soon as they come out of the house. 3. The reason is rivalry that the applicant's brother Surendra has filed FIR No. 357 dated 20.10.2023 against the culprits at police station Bawal, in which Yogesh and others are on bail Therefore, it is requested to Sir that security should be provided to the applicant and his family and strict legal action should be taken against the culprits very soon. Sir, it will be very kind. Date 15.03.2024 SD/-Karambir.

3. The learned counsel for the petitioner contends that the present FIR has been got registered on account of a previous enmity between the parties as both belong to the same village. An FIR No.62 dated 19.03.2024 under Sections 323, 452, 506/34 IPC, Police Station Bawal, District Rewari had been got registered against the present complainant-party at the instance of one Karishma, a family member of the petitioner. The present case was one of no injury at all. The allegations were vague and general in nature. A co-accused/Rajesh had been granted the concession of anticipatory bail after the addition of Section 307 IPC. In FIR No.267 dated 15.08.2024 under Sections 109(1), 126, 190, 191 (3) of BNS & 25 of the Arms Act, the petitioner had been exonerated. As the petitioner was in custody since 13.09.2024 but none of the 15 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.

4. The learned counsel for the State, on the other hand, has filed a status report by way of an affidavit of Surender Sheoran, Deputy Superintendent of Police, Bawal dated 02.12.2024 which is taken on record.

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While referring to the said report, he contends that the petitioner and his family members were habitual offenders. Initially, FIR No.357 dated 28.10.2023 under Sections 148, 149, 323, 506 and 34 IPC, Police Station Bawal, was registered at the instance of Surender, brother of the present complainant-Karambir for the injuries suffered by one Mahender. Yogesh and Yogender (petitioner) alongwith Gopal, Rajesh and Mitersen were accused in the said case. Thereafter, the instant FIR came to be registered against the petitioner-Yogender, Yogesh, Rajesh and Ankit. During the pendency of the anticipatory bail application of the petitioner, FIR No.267 dated 15.08.2024 under Sections 109(1), 126, 190, 191(3) of BNSS, 2023 and Section 25 of the Arms Act, 1959, Police Station Bawal, District Rewari came to be registered at the instance of Surender against Yogesh, Yogender (petitioner), Mitarsen, Rajesh and Akash. Therefore, it was apparent that the petitioner was a notorious person who committed yet another offence during the pendency of his anticipatory bail application. The nature of the allegations and the conduct of the petitioner did not entitle him to the concession of bail. He, however, concedes that the petitioner had been exonerated in FIR No.267 dated 15.08.2024, was in custody since 13.09.2024 and that none of the 15 prosecution witnesses had been examined so far.

5. The learned counsel for the complainant has vehemently opposed the bail application contending that the petitioner-Yogender and his brother-Yogesh were hardened criminals. This was the third FIR registered at the instance of the present complainant party against the petitioner, his

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brother-Yogesh and others. The brazenness with which the occurrence leading to the registration of the FIR No.267 dated 15.08.2024 was committed during the pendency of the anticipatory bail application showed that the petitioner had no regard for the law. Therefore, even though, it was the case of no injury the petitioner was not entitled to the concession of bail.

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

7. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. It is a case of no injury. The petitioner is in custody since 13.09.2024 but none of the 15 prosecution witnesses have been examined so far. Therefore, the Trial in the present case is not likely to be concluded anytime soon. In this situation, his further incarceration is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Yogender 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.

9. 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 referred to in the status report dated 02.12.2024.

10. If any attempt whatsoever is made by the petitioner and/or his family members/friends to contact/threaten/intimidate any of the witnesses of the present occurrence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.



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11. The petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- 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 trial without sufficient cause.

12. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

December 03, 2024
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No