



CRM-M-39970-2024

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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CRM-M-39970-2024

Date of decision: 10th January, 2025

Brahmpal @ Biram Pal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Keshav Pratap Singh, Advocate for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Nikhil Ghai, Advocate and
Mr. Nikhil Thomman, Advocate for the complainant.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No. 165 dated 08.04.2022 registered under Sections 148, 149, 323, 307 and 302 read with Section 34 of IPC and Sections 25 and 27 of Arms Act, 1959 at Police Station Sector 29, Panipat.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR has been registered on the basis of a written complaint lodged by the complainant-Roshan alleging therein that on 08.04.2022, he along with his younger brother Sandeep was going towards village Simla Gujranwala to water his fields. When they reached



near the house of one Tilu Ram, they saw that his cousin brother Sonu was going towards his house on a tractor and Ritik son of the present petitioner was going towards his fields. An altercation had taken place between them. Within the sight of the complainant, Ritik made a call to the petitioner and sometime thereafter, the petitioner along with his family members reached at the spot and the petitioner at once fired a shot with his licenced pistol on the chest of Sandeep. Sachin son of Mahipal who had also come there, fired a shot towards the complainant with a country made pistol which he was carrying in his hand but the complainant had a narrow escape. Then Ompal fired shot towards Sandeep, Pardeep and Parveen. The petitioner and his brother also fired shots in the air. Sandeep succumbed to the injury sustained by him. After registration of FIR, investigation proceedings were initiated. The petitioner was arrested and is in custody since 11.04.2022. Presently, he along with the co-accused, is facing trial for the aforementioned offences.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case. It is a case of version and cross-version and a cross case bearing FIR No. 234 dated 19.05.2022 has been registered against the members of the complainant party. Infact, the complainant party was the aggressor and had intercepted his son Ritik and had tried to kill him. On receipt of this information, he had gone along with other family members at the spot and had fired shots in self defence. He himself and his family members too had sustained injuries in the incident. Trial is likely to take time. His further incarceration would not serve any useful purpose. Since he was not the aggressor, therefore, he cannot be considered guilty of committing offence



of murder. Co-accused Ritik and Mahipal have since been extended benefit of bail. On parity, he too deserves to be released on bail.

4. Status report has been filed by respondent-State. It is submitted therein and learned Assistant Advocate General, Haryana assisted by learned counsel for the complainant has vehemently argued that there are serious and specific allegations against the petitioner who, by firing shots with his licenced pistol, had killed the victim-Sandeep and had caused injuries to other family members of his family on the fateful day. He was the member of the aggressor party. There are chances of his absconding or committing similar offence, if extended benefit of bail. Therefore, it is urged that the petition does not deserve to be allowed.

5. I have heard learned counsel for the parties at considerable length and have gone through the record carefully.

6. The petitioner is alleged to have formed membership of an unlawful assembly with the co-accused and in prosecution of common object of that unlawful assembly, is alleged to have opened an assault upon the victim Sandeep and members of his family and is further alleged to have fired a shot thereby killing the victim-Sandeep. It is not the version of the petitioner that the death of the victim had not taken place due to sustaining firearm injury at his hands. The plea as taken is that the shot was fired in self defence. The question as to whether the petitioner was aggressor or not and the fatal injury caused by him was in self defence or not, has to be decided by the learned trial Court on thorough assessment and evaluation of the evidence to be produced during the trial and this Court cannot consider that question while deciding the present petition for grant of bail. Keeping in



view the grave nature of the allegations as levelled against the petitioner, the quantum of sentence which the conviction may entail but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petition does not deserve to be allowed. Hence, the same is dismissed.

7. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

10th January, 2025
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |