
(2016) 04 P&H CK 0252
In the Punjab And Haryana At Chandigarh
Case No : CRM No. M-3855 of 2016 (O & M)

Nishar

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 22-04-2016

Acts Referred:

Arms Act, 1959 — Section 25
Criminal Procedure Code, 1973 (CrPC) — Section 439
Penal Code, 1860 (IPC) — Section 307

Citation : (2016) 3 LawHerald 1899

Hon'ble Judges : Tejinder Singh Dhindsa, J.

Bench : Single Bench

Advocate : Mr. S.R. Hooda, Advocate, for the Appellant; Mr. Anmol Malik, AAG, Haryana, for the Respondent

Final Decision : Disposed Off

Judgement

Tejinder Singh Dhindsa, J. (Oral) - Petitioner seeks benefit of regular bail pending trial in case FIR No. 563 dated 30.12.2013 under Sections 307, 332, 353, 186 of Indian Penal Code and Sections 25/54/59 of Arms Act, registered at Police Station Punhana, District Mewat.

2. Counsel for the parties have been heard.

3. FIR came to be registered on the basis of secret information received that six-seven armed persons had stolen a Bolero Jeep and one Eicher Tractor with Trolley and are coming towards Punhana side for committing a serious offence.

4. Based on such secret information, a raiding party was constituted. The Bolero vehicle followed by the Eicher Tractor was indicated to stop and as per prosecution version, the assailants sitting in the vehicles fired upon the police party with their country made firearms.

5. Name of the petitioner does not figure in the FIR and neither in the secret information.

6. It so transpires that co-accused, namely, Jafer @ Jafrudin who was arrested by the police in another case suffered a disclosure statement and on the basis of which the petitioner has been implicated in the present case. Based on such disclosure statement, the petitioner was arrested on 27.10.2015 i.e. almost after a period of two years of the incident which is stated to have taken place on 30.12.2013.

7. During the course of arguments, it has gone uncontroverted that none of the police officials who constituted the raiding party suffered any injuries.

8. Learned State counsel would however, oppose the present petition by stating that there are four bullet marks on the police Gypsy vehicle that had been used by the raiding party. That apart, it is submitted that one pistol .315 bore and a live cartridge were also recovered from the present petitioner.

9. The petitioner has suffered incarceration since 27.10.2015. The trial is still stated to be at the very initial stage as some of the co-accused have not joined trial proceedings.

10. The issue as to whether offence under Section 307 IPC would be made out against the present petitioner would be a moot point.

11. Without making any observations on merits and keeping in view the length of incarceration already suffered, petitioner is held entitled to the benefit of bail.

12. Petition is allowed. Petitioner be enlarged on bail subject to satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Nuh.

13. Disposed of.