

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-5802-2021 in/and
CRM-M-7398 of 2021 (O&M)

DECIDED ON: 26th FEBRUARY, 2021

Naudeep Kaur

.....PETITIONER

VERSUS

State of Haryana

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. R.S. Cheema, Senior Advocate with
Mr. Arshdeep Singh Cheema, Advocate,
Mr. Harinder Deep Singh Bains, Advocate,
Mr. Manvendra Singh, Advocate
Mr. Pawandeep Singh, Advocate and
Mr. Manraj Singh, Advocate
for the petitioner.

Mr. Deepak Sabharwal, Additional Advocate General,
Haryana.

AVNEESH JHINGAN, J (ORAL)

This petition under Section 439 of the Code of Criminal Procedure, 1973 is filed for grant of regular bail in case FIR No. 25, dated 12.1.2021 under Sections 148, 149, 332, 353, 186, 384, 379-B, 307 of Indian Penal Code, 1860, registered at Police Station Kundli, District Sonipat.

It would be apt to note at this stage that the alleged incident took place on 12.1.2021 outside the premises of M/s Shahrana Elecmech Private Limited, Plot No. 349, Phase-4, Sector 57, HSIDC, Kundli. For this incident two FIRs were registered. FIR No. 26/2021 was at the behest of the Accountant of the Company and the present one was by the Station House Officer of Police Station, Kundli. The petitioner was granted bail in FIR No. 26/2021, by Judicial Magistrate Ist Class, Sonipat, vide order dated 15.2.2021.

As per the pleadings, the petitioner along with some workers were making a peaceful protest outside the factory premises. The grievance was being raised regarding non-payment of wages to some of the labourers. Whereas the case of State is that protest turned violent, police officials were attacked and in the process injuries were inflicted to police personnels. There was also an attempt to snatch the weapons from the police.

The State had filed status report dated 24.2.2021 in CRWP No. 1493 of 2021, where the *suo-motu* cognizance was taken by this Court. Learned counsel for the State adopts the status report as reply in the present bail petition.

Learned counsel for the petitioner argues that the petitioner is a lady and under the proviso to Section 437 Cr.P.C. even the Magistrate could have granted bail. It is further argued that for same incident, two FIRs have been registered. The present FIR is only improvement on the other version. It is further submitted that there is no specific injury attributed to the petitioner for invoking Section 307 IPC.

Learned State counsel relies upon a video recording produced in a pen drive. Submissions is that the protest was violent and when police tried to disburse the crowd, they were attacked with dandas.

While dealing with the bail application it would not be appropriate for this Court to go in detailed discussion with regard to merits of the allegations. The contentions are being considered only for purpose of deciding grant of bail.

As per the case of the petitioner, she was heading a peaceful protest for getting wages of the workers. On the other hand the case of the

State is that it was a case of vandalism and hooliganism.

The Supreme Court in case of *Anita Thakur and others Versus Govt. of J&K and others, 2016(15) SCC 525*, held that holding of peaceful demonstration is a right which can be traced to the fundamental right but this right is subject to reasonable restriction.

It would be appropriate to say that the right to peaceful protest is circumscribed by a thin line. The crossing of line may change the colour of protest. It would be subject matter of trial as to whether the line for peaceful protest was crossed in the alleged incident or not.

Considering the material placed on record before this Court, the issue with regard to invoking of Section 307, 332, 353 and 379-B IPC would be a debatable issue and to be considered during the trial.

The petitioner is in custody since 12.1.2021. Albeit the matter is under investigation but that itself would not be sufficient ground to deny personal liberty to the petitioner.

At this stage, no comment is being made on the video recording produced in pen drive before this Court. However, it will suffice that the petitioner shall maintain a restrain while being on bail to ensure that no law and order issue arises due to her actions.

The petition is allowed. Petitioner is ordered to be released on bail subject to her furnishing surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

(AVNEESH JHINGAN)
JUDGE

26th FEBRUARY, 2021

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Whether speaking/reasoned Yes

Whether reportable Yes