

In the High Court of Punjab and Haryana at Chandigarh

CRM-M-34366 of 2014

Date of Decision:12.2.2015

Ajay Kumar

---Petitioner

versus

State of Haryana

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Ms. Tanu Bedi, Advocate
for the petitioner
Mr. Rajesh Gaur, Addl. A.G.Haryana
for the respondent-State

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

REKHA MITTAL, J.

The petitioner prays for grant of regular bail in FIR No. 174 dated 18.6.2005 registered at Police Station, Bilaspur, District Gurgaon for offence punishable under Sections 148, 149, 323, 302 of the Indian Penal Code and Sections 25, 27 of the Arms Act.

Counsel for the petitioner contends that the petitioner is in custody since 13.12.2012. The co-accused in the case were tried and convicted by the Court of Sessions. Two separate appeals i.e. CRA-43-DB of 2008 and CRA-12-DB of 2008 were filed by the convicts in this Court which were disposed of vide order dated 15.12.2011 whereby conviction and sentence of 07 accused were affirmed whereas the remaining 07 accused have been acquitted of the offence charged against them. The convicts whose appeal was rejected by this Court has filed an appeal by way

of special leave in the Hon'ble Supreme Court of India and the same is pending. The convicts have been released on bail by the Apex Court vide orders dated 19.11.2012 and 8.3.2013. It is argued that after presentation of supplementary challan against the petitioner, he was charged for committing offence punishable under Sections 148, 302, 323 IPC read with Section 149 thereof vide order dated 23.4.2013. There is no progress in trial till date as the original record pertaining to case "State Vs. Mam Chand and others" decided on 30.11.2007 by the Additional Sessions Judge, Gurgaon has been summoned by the Hon'ble Supreme Court in the appeal preferred by the convicts. The petitioner was allowed interim bail for a period of two weeks vide order dated 23.5.2014 and he surrendered in compliance with the order passed by this court. It is argued with vehemence that as the trial proceedings cannot proceed further for want of records, the petitioner may be released on bail.

Counsel for the State has seriously opposed the prayer with the submissions that FIR No. 174 dated 18.6.2005 was lodged against the petitioner alongwith co-accused for committing murder of Bhagirath son of Sohan Lal and Parmod cousin brother of complainant Surinder and complainant Surinder also sustained injuries in the occurrence. The petitioner stayed away from the judicial process for a period of more than seven years and was eventually arrested on 13.12.2012. As per the allegations, the petitioner inflicted knife blow in the stomach of one of the deceased namely Parmod. Keeping in view the role attributed to the petitioner coupled with his previous conduct of evading court proceedings, he does not deserve to be enlarged on bail

I have heard counsel for the parties and perused the records.

Be that as it may, the petitioner has been attributed a specific role in giving a knife blow in stomach of deceased Parmod. The present is a case of double murder wherein the assailants came to the spot armed with weapons when marriage of Shaweta was being performed on 17.6.2005. The petitioner was declared as a proclaimed offender and his co accused were tried and convicted by the trial court. 07 of them were acquitted by this Court to whom probably no injury has been attributed. The only premise on which the petitioner presses for release on bail is that trial is not progressing for want of original records, now in custody of the Hon'ble Supreme Court of India.

No doubt, speedy trial is one of the privileges of the accused but the petitioner is at liberty to make a prayer to the trial court to get hold of original records, may be through process of this Court so that evidence of the prosecution is concluded without further wastage of time when otherwise delay in conclusion of proceedings may cause prejudice to the prosecution as there is always danger of material evidence being lost with passage of time. However, keeping in view the role attributed to the petitioner and his indifferent attitude towards judicial proceedings for more than 07 years till he was arrested, I do not think it to be a fit case wherein the petitioner deserves to be released on bail

Dismissed.

(REKHA MITTAL)
JUDGE

12.2.2015
PARAMJIT