

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

206

CRM-M-36752-2015

Date of Decision: November 4, 2015.

KRISHAN @ LALLA

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM:- HON'BLE MR. JUSTICE M.M.S.BEDI

Present: Mr.Kawaljyot Singh, Advocate,
for the petitioner

Ms.Harpreet K.Athwal,DAG, Punjab

M.M.S.BEDI, J.(Oral)

The petitioner has been in custody for the last more than two years. The petitioner along with his co-accused has allegedly trespassed the house of complainant Balwinder Kaur and attacked her with three knife blows on her face, tongue and hand with an intention to kill her.

It is inter alia argued that the complainant has left India as such unnecessary delay is being caused in the conclusion of the trial. Counsel for the petitioner also relies upon the order passed in case of Sushant Kumar who has been granted bail on 21.09.2015.

Perusal of the order dated 21.09.2015 indicates that the co-accused of the petitioner has been granted concession of bail on the ground of default of the prosecution agency in producing only two witnesses in two years.

I have considered the facts and circumstances of the case for grant of bail in the second petition of the petitioner. There does not appear to be any changed circumstances except for the parity sought with Sushant Kumar.

I have considered the allegations against the petitioner who is alleged to be a hired person by Amrit Bhakhri and Shivani Parasar to attack

the complainant and her family members. A balance is required to be struck between the liberty of the petitioner and right of the prosecution to produce the witnesses without any threat or coercion. Since the complainant in the present case has been evading appearance, no opinion can be formed by this Court whether it is on account of threat by the persons who are on bail or it is on account of lethargy on the part of prosecution agency. Merely because co-accused has been granted concession of bail, the petitioner can not be granted the same relief in the above said circumstances.

The interest of justice would adequately be made in case trial Court is directed to make earnest endeavor to examine the material/injured witness who in the present case, is a female.

Taking into consideration the period of detention of the petitioner, I deem it appropriate to dispose of this petition with a direction that the trial Court shall make earnest endeavor to examine PW Balwinder Kaur within a period of two months from the next date of hearing. In case the prosecution agency fails to produce Balwinder Kaur within the abovesaid period, the trial Court shall release the petitioner on bail on his furnishing bail bond and surety bond to the satisfaction of the trial Court on expiry of above said two months period.

(M.M.S. BEDI)
JUDGE

November 04, 2015
TSG