

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

**CRM-M No.29387 of 2018
Decided on: 16.08.2018**

Nand Kishore

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. S.S. Virk, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.296 dated 26.12.2017, for offence punishable under Sections 326, 365, 370, 506 and 120-B of the Indian Penal Code, 1860 (in short 'IPC'), registered at Police Station Sadar Panipat, District Panipat.

Counsel for the petitioner has submitted that in a petition i.e. CRM-M No.25940 of 2018, filed by co-accused of the petitioner namely Monu @ Mona, the following order has been passed by this Court on 05.07.2018:-

“...Learned counsel for the petitioner submits that as per the allegations in the FIR, complainant-Meena has stated that Naveen, aged about 17 years, is her son and he used to play role of Radha Krishan in Jagaran parties and on that account he was known to petitioner. It is further alleged in the FIR that in the month of April, 2017, her son received some internal injuries on his private parts in an

accident while riding scooter and got treatment from a private hospital at Panipat and thereafter he rejoined the said Jagaran party. It is further alleged in the FIR that since victim Naveen was having pain while dancing in the Jagaran party, the petitioner took him to one Hakeem in Uttar Pradesh for his treatment and on 10.08.2017, the petitioner, along with other co-accused, got the private part of Naveen amputated and further extended threats to him that he should not disclose this fact to anybody.

Learned counsel for the petitioner further submits that the petitioner was arrested on 26.12.2017 and he is in judicial custody. He further submits that complainant Meena, victim Naveen and Vijay, father of the victim, while appearing as PW-1, PW-2 and PW-3 respectively, have not supported the prosecution version and even PW-2 Naveen has refused to identify the petitioner and another co-accused in the Court while making deposition. Consequently, all these three witnesses were declared hostile.

Learned counsel for the petitioner further submits that during the course of investigation, the police has recovered certain instruments vide which the amputation of this victim was done by one co-accused Hashim @ Bablu Khan and the said co-accused has already been granted concession of regular bail, vide order dated 25.06.2018, passed by the Additional Sessions Judge, Panipat on the ground that the complainant, victim and two more witnesses have not supported the prosecution version and they were declared hostile and the said accused was in judicial custody since 03.01.2018.

Learned State counsel, on instructions from ASI Patwinder Singh, has not disputed the factual position and submitted that out of total 15 prosecution witnesses, 11 witnesses are yet to be examined.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the facts that the material witnesses have not supported the prosecution version; the petitioner is in judicial custody since 26.12.2017; co-accused has already been granted concession of regular bail and in view of the fact that 11 more prosecution witnesses are yet to be examined; the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate concerned.”

Counsel for the petitioner has further submitted that another co-accused namely Hasim @ Bablu Khan has also been granted the concession of regular bail by the Additional Sessions Judge. It is further submitted that the only role attributed to the petitioner is that he had provided a room where the incident has taken place.

Counsel for the State, on instructions from ASI Krishan, has not disputed the factual position and the fact that the prosecution witnesses have not supported the case. It is further submitted that only 06 prosecution witnesses have been examined and 09 more prosecution witnesses are yet to be examined.

Without commenting anything on merits of the case and considering the fact that the co-accused of the petitioner namely Monu @ Mona as well as Hasim @ Bablu Khan, have been granted the concession of bail; the petitioner is in custody since 28.12.2017; the case is still at the stage of recording the statement of prosecution witnesses and conclusion of the trial is likely to take some time, this petition is allowed and the petitioner is ordered to be released on bail

subject to his furnishing bail bonds/ surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

16.08.2018
yakub

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No