

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

217

CRM-M-45324-2018

Date of Decision:02.11.2018

Juned

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

**Present: Mr. Anirudh Singh Shera, Advocate and
Mr. Nagar Singh, Advocate,
for the petitioner.**

Mr. Manish Bansal, D.A.G., Haryana.

**Mr. Ritu Raj Singh, Advocate,
for the complainant.**

HARI PAL VERMA, J.(Oral)

Present is the 3rd petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.513 dated 07.07.2016 under Sections 147, 148, 149, 323, 506, 384, 34 IPC (the offences punishable under Sections 302, 325, 216 IPC were added later on), registered at Police Station Sector-55, Faridabad, District Faridabad.

Learned counsel for the petitioner has argued that the petitioner is in custody since 08.07.2016. The injury attributed to the petitioner is on the left leg of deceased-Umarsed, whereas co-accused Sabbir who has given injury on the mouth of Umarsed, has already been admitted on bail by the trial Court vide order dated 22.12.2017. The petitioner has caused injury on the left leg of the deceased, has been declined bail by the trial Court.

Though, the petitioner has earlier approached this Court for the relief claimed in the petition by way of CRM-M-1408-2018, which was dismissed as withdrawn on 19.03.2018. However, thereafter, again he approached this Court for the grant of regular bail vide CRM-M-19855-2018 and the same was dismissed by this Court vide order dated 01.06.2018. While declining the bail, the fact which weighed this Court is that two FIRs bearing FIR No.458 dated 25.07.2015 under Sections 147, 149, 323, 325, 427, 452, 506 IPC, Police Station Sector-55, Faridabad and FIR No.757/2013 under Section 323 IPC, Police Station Sector-55, Faridabad, are registered against the petitioner.

He has argued that in FIR No.757/2013, petitioner was acquitted by the trial Court vide judgment dated 09.05.2018, whereas in FIR No.458 dated 25.07.2015, matter has been compromised between the parties. In support of his contention, he has drawn attention of this Court to the judgment dated 09.05.2018 (Annexure P-6) and the compromise dated 05.02.2018 in FIR No.458 dated 25.07.2015 dated 05.02.2018 (Annexure P-7), respectively. Therefore, it is these changed circumstances i.e. acquittal in FIR No.757/2013 and compromise in FIR No.458 dated 25.07.2015, petitioner has filed the present petition seeking regular bail.

Learned counsel for the complainant has argued that even if the petitioner has been acquitted in FIR No.757/2013 and the matter has been compromised in FIR No.458 dated 25.07.2015, still the petitioner is not entitled for regular bail for the reason that he was a member of an unlawful assembly and on account of injury caused by the co-accused, including the petitioner, Umarsed had died.

Learned State Counsel on instructions from ASI Surinder Singh

has argued that the repeated petitions are not maintainable, particularly when vide detailed order dated 01.06.2018 passed in earlier petition i.e. CRM-M-19855-2018, regular bail has been dismissed by this Court.

I have heard learned counsel for the parties.

No such contrary document or averment has been made to belie the fact that the petitioner has been acquitted in FIR No.757/2013 and the matter has been compromised so far as FIR No.458 dated 25.07.2015 is concerned. Co-accused Sabbir has been attributed injury on the mouth of Umarsed, whereas petitioner has been attributed injury on the left leg of deceased-Umarsed. Therefore, as compared to co-accused Sabbir, the injury attributed to the petitioner is on the non-vital parts of the deceased.

Considering the fact that the petitioner is in custody since 08.07.2016 and on a specific query put to learned State Counsel, he has informed that as against 30 witnesses cited by the prosecution, only two witnesses have been examined so far, therefore, trial in the case may take long time, I deem it appropriate to admit the petitioner on regular bail. The acquittal of petitioner in FIR No.757/2013 and compromise in FIR No.458 dated 25.07.2015 are also relevant factors to be considered in the case, as earlier while declining bail to the petitioner, this Court had made specific reference about these FIRs.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of his bail bonds/surety bonds to the satisfaction of trial Court.

November 02, 2018

seema

(HARI PAL VERMA)

JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No