

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.8314 of 2019
Decided on: 13.03.2019

Sunil @ Kalia @ Balwant

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Amardeep Sheoran, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

Mr. Rajesh Dhankhar, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this second 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.46 dated 16.03.2018 registered under Sections 148, 149, 323, 365, 506 of the Indian Penal Code, 1860 (in short 'IPC') at Police Station Siwani, District Bhiwani.

The first petition seeking regular bail to the petitioner was dismissed as withdrawn on 20.12.2018.

The new grounds taken in the present petition is two fold, which are as under:-

- 1. That the petitioner has suffered a paralytic attack.*
- 2. That the statement of the complainant and the material witnesses have already been recorded and there is no possibility for the petitioner to tamper with the evidence.*

Counsel for the petitioner has submitted that as per the

allegations in the FIR, which was got registered by one Rajesh, it is stated that on 16.03.2018, 12-13 persons armed with weapons, came to his house, in a pick-up van and one jeep and started abusing in loud voice and asked him about his brother – Sandeep and threatened that they will kill him. When the complainant came out of the house, the accused persons exerted that he is brother of Sandeep, abduct him and Sandeep will himself come and on that pretext, the complainant was forcibly put in the pick-up van and he was given multiple injuries from the reverse side of the weapons and while taking the complainant in a van, both of their vehicles collided with each other and in the meantime, the complainant finding a chance, ran away from the spot.

Counsel for the petitioner has submitted that 14 other co-accused of the petitioner have already been granted the concession of regular bail and out of 14 prosecution witnesses nominated by the prosecution, 11 PWs have already been examined and it will still take some time in conclusion of the trial. It is further submitted that the petitioner has suffered facial paralysis, for which he needs constant medical attention.

Counsel for the State has filed the affidavit of the Superintendent, District Jail Bhiwani today in the Court and as per this affidavit, the petitioner is involved in 03 other FIRs, however, he is on bail in 02 FIRs and in one FIR registered under the Arms Act, he is not on bail. It is further stated in the FIR that on 03.02.2018, the petitioner suddenly complaint of swelling on his right side of the case and he was referred to the PGIMS, Rohtak for further management and there, he was diagnosed with right side LMN Facial Palsy, which was

progressive in nature and he is under treatment at PGIMS, Rohtak, however, there is no significant improvement in the health condition of the petitioner. The affidavit is supported by the Medical Report of Medical Officer, Bhiwani, which reads as under:-

“It is certified that accused Sunil @ Kalia @ Balwant S/o Chatar Singh R/o Bidhwan District Bhiwani was apparently alright when he suddenly complaint of mild swelling on his right side of face on 03.02.2019. I referred him to PGIMS, Rohtak for further management and there he was diagnosed with right side LMN Facial Palsy which was progressive in nature. Patient is right now under medication prescribed by the Doctors of PGIMS, Rohtak since 04.02.2019, but there is not any significant improvement in his health condition.

*Medical Officer
District Jail Bhiwani.”*

However, counsel for the State has not disputed the factual position and the fact that the complainant has already been examined and further stated that in fact, 11 PWs, have been examined and only 03 witness of the prosecution, remains to be examined.

Counsel for the complainant has, however, opposed the prayer for bail on the ground that in case the petitioner is granted bail, he may influence the remaining witnesses of the prosecution and he may also flee from the process of Court. It is also submitted by counsel for the complainant that the petitioner be directed to be released on bail subject to his furnishing heavy surety.

Without commenting anything on merits of the case, considering the fact that out of 14 prosecution witnesses, 11 PWs have

already been examined and also in view of the fact that the petitioner is suffering medical problem as noticed above and he is under constant medical treatment at PGIMS, Rohtak, where it is found that there is not much significant improvement in his health condition and conclusion of the trial is likely to take some time, this petition is allowed and the petitioner is directed to be released on regular bail subject to his furnishing bail bonds and 02 local sureties, to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

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

(ARVIND SINGH SANGWAN)
JUDGE

13.03.2019

yakub

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No