

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

**CRM-M-6072-2020 (O&M)
Decided on: 05.08.2020**

Dharminder

... Petitioner

Versus

State of U.T. Chandigarh

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Pratham Sethi, Advocate
for the petitioner.

Mr. Lalit Kumar Gupta, Additional P.P. U.T. Chandigarh.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.186 dated 10.09.2019 under Sections 147, 148, 149, 341, 323, 324, 307, 506 and 34 of the IPC, registered at Police Station, Sector 36, U.T. Chandigarh.

Brief facts of the case are that on 08.09.2019 at about 09.10 p.m. when the complainant-Chhotu Kumar reached on the road after visiting his sister Sonia, then Rinku @ Potli alongwith his accomplices Dharminder, Ravi, Vikas, Golu and 5-6 other persons were standing there carrying sword, chopper (Gandasa), wodden sticks and they started abusing him. Thereafter, 10-11 persons attacked the complainant with sword, chopper and wodden sticks. Dharminder attacked with chopper which hit on the face, lips and head of the complainant, resulting in multiple injuries.

Contends that the petitioner was arrested on 10.09.2019, but later on released on interim bail vide order dated 21.05.2020 passed by this Court in CRM-11073-2020 and he has not misused the above concession.

Also contends that there are 5 accused and except petitioner, all have been released on regular bail either by this Court or trial Court.

Further contends that investigation is already over and charges were framed on 20.12.2019, but out of total 11 witnesses, only 2 have been examined till date. It is also the contention that matter has been amicably settled between the parties.

On the other hand, learned counsel for U.T. opposed the prayer and submitted that offence under Section 307 IPC is not compoundable and two PWs have already been examined.

Heard both sides and perused the paper book.

This Court on 21.05.2020 in CRM-11073-2020 passed the following order:-

“ It is contended by learned counsel for the petitioner that instead of pressing for regular bail, he confines his prayer only for interim bail in view of the fact that the matter has been amicably settled between the parties.

On the other hand, learned counsel for the complainant has also not disputed the factum of compromise, but learned counsel for U.T., Chandigarh has vehemently opposed the prayer and further submitted that the petitioner is facing two other criminal cases under Sections 380, 384, 411, 34 of the Indian Penal Code, 1860 (for short 'IPC') apart from one DDR under Section 151 of IPC.

Undisputedly, petitioner is in custody since 14.10.2019 and after investigation, challan has already been presented. Even the charges were framed on 20.12.2019 and now the trial is pending for 29.05.2020. No doubt, offence under Section 307 of IPC, is not compoundable and this Court will not express any opinion on the validity of the compromise, but the fact remains that the complainant is not averse for granting bail to the petitioner. Therefore, there is no justification to prolong the incarceration of the petitioner. Consequently, the petitioner is ordered to be released on interim bail, till the next date of hearing, to the satisfaction of learned trial Court/Duty Magistrate.

Adjourned to 05.08.2020.

It is clarified that this order may not be construed as an expression of opinion on the merits of the case or compromise referred above in any manner.”

In terms of the above order, the petitioner was released from custody and he is on interim bail uptill date.

All the co-accused have already been granted bail either by this Court or the learned trial Court and in view of the present situation the trial is likely to take sufficient long time. Moreover, the matter is stated to have been compromised with the complainant side. Although, this court while passing the order dated 21.05.2020 clarified that this may not be construed as an expression of opinion on the merits of the case or compromise referred above in any manner and the same is reiterated again to clear the doubt in this regard.

In view of the above, petition is allowed. Petitioner is ordered to be released on bail pending trial in this case, subject to the conditions as may be imposed by the trial Court or Illaqa Magistrate.

The petitioner shall fully co-operate with learned trial Court.

The above observations may not be construed as an expression of opinion on the merits of the case in any manner.

(MAHABIR SINGH SINDHU)
JUDGE

05.08.2020
Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No