

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

203

CRM-M-8366-2019

Date of Decision:11.09.2020

Saddik

..... Petitioner

Versus

State of Haryana

..... Respondent

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

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

Ms. Gaganpreet Kaur, A.A.G., Haryana.

HARI PAL VERMA, J.(Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.513 dated 07.07.2016 under Sections 147, 148, 149, 323, 386, 302, 216 IPC, registered at Police Station Sector-55, Faridabad, District Faridabad.

As per FIR on 07.07.2016 at about 9.00 AM, when the complainant along with his family members was coming from his village Idgah, in the way, Tayyab, Saddik, Sabbir, Junaaid, Azad, Javed, Harun, Wasim, Wakar, Bashir, Khalid, Nainu, Rajju etc. in conspiracy with each other attacked upon the complainant and his family members with 'lathis' and 'dandas'. Nainu caused injury with 'lathi' on the head of the complainant

and when Umarsaid has come to rescue him, the accused Tayyab and Saddik

also caused injuries on his head with lathi, whereas Sabbir caused injury on the face of Umarsaid and Junaid caused injuries on the leg of Umarsaid. Azad and Javed also caused injuries on the person of Umarsaid. The accused persons also caused injuries to the family members of the complainant with lathis and dandas. Since FIR No.757/2013, under Sections 147, 149, 323, 325, 341 and 506 IPC has already been registered against the accused persons at Police Station Sector 55, Faridabad, the accused persons were pressurizing the complainant party to settle the said case and as the complainant has refused to compromise, the accused attacked the complainant and his family members. While going, the accused persons also threatened to kill the complainant party, in case, they take any legal recourse against them.

Learned counsel for the petitioner submits that the petitioner was arrested in the case on 18.12.2016. He further submits that as per FIR, there is only one injury on the head of the deceased-Umarsaid, whereas not only the petitioner rather Tayyab, who happens to be brother of the petitioner, has also been attributed the same injury. The prosecution evidence is over on 09.03.2020 and thereafter, the case was listed on 17.03.2020, but in view of prevailing COVID-19 pandemic, regular cases are not being taken up by the trial courts.

Learned State counsel, on instructions from SI Umar, does not dispute the custody period, however, she submits that the deceased-Umarsaid has died because of the head injury and lathis and dandas were recovered from the petitioner as well as co-accused Tayyab. All PWs have already been examined on 09.03.2020 and now the case is fixed for defence evidence on 23.09.2020. Therefore, the case being at an advanced stage,

petitioner is not entitled to be admitted on regular bail.

Heard learned counsel for the parties.

Petitioner is in custody since 18.12.2016. As per FIR, the petitioner and the co-accused Tayyab have given a lathi blow on the head of Umarsaid, who reportedly died in the incident. However, the trial Court is yet to decide the culpability of the accused as which of the accused i.e. the petitioner or the co-accused Tayyab has caused injury on the head of the deceased-Umarsaid, as it is conceded case of the parties that there is only one injury on the head of the deceased. The petitioner being in custody for about 3 years and 9 months and on account of prevailing COVID-19 pandemic situation, there is a remote possibility for resumption of regular trial in the coming time, this Court deems it appropriate to admit the petitioner on regular bail.

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

However, it is made clear that the observations made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall proceed with the trial independently without being influenced by the order of bail passed by this Court.

September 11, 2020
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No