

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

CRM-M No.14877 of 2020 (O&M)

Decided on: 15.09.2020

Aman Kumar @ Bhainsa

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Anil Kumar Garg, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. Mohit Garg, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this 2nd 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.0031 dated 19.03.2019, for offence punishable under Sections 307, 324, 323, 506, 148, 149 of the Indian Penal Code, 1860 (in short 'IPC') registered at Police Station Daba, Police District Police Commissionerate Ludhiana, District Ludhiana.

The earlier one was dismissed as withdrawn on 20.01.2020.

Counsel for the petitioner has relied upon the order dated 19.08.2020 passed by this Court in CRM-M No.23219 of 2020, granting bail to the co-accused Dalip Kumar. The operative part of the said order reads as under:-

"Learned counsel for the petitioner submits that the new ground for filing the present petition is that the

petitioner is in judicial custody for the last about one year and five months and after framing of charge, till date no prosecution witness has been examined.

Learned counsel further submits that the petitioner is ready to compensate the victim by paying an amount of Rs. 50,000/- by way of demand draft, without prejudice to his right of defence.

Learned counsel for the petitioner further submits that the complainant himself is involved in some other cases and since he is in judicial custody, there is no likelihood of recording of his statement in near future.

It is further submitted that as per the allegations in the FIR, registered at the instance of complainant Sonu, it is stated that he is a labourer and he had gone to a shop for purchasing some household articles and in the meantime, 15/20 persons came there. Thereafter, one Ajay Kumar @ Kaku gave a dataar blow on complainant's head; Dalip Baiya (petitioner herein) gave a Khanda blow behind his head and second blow on his face; Gagandeep @ Goshu gave a Khanda blow on his head; Aman Bhainsa gave a blow on left arm and a lady gave a Khand blow on his left leg; Aman Doli and Ravi Khachar gave blow on his neck and other 8/9 unknown persons also gave beatings to complainant.

Learned counsel for the petitioner further submits that in the FIR, no motive is attributed to the accused and the complainant was discharged after some time.

In reply, learned State counsel submits that petitioner is involved in number of similar cases, however, one co-accused Rahul has been granted concession of regular bail by the trial Court. Learned State counsel further submits that due to Covid-19 situation, the trial is not proceeding.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the submissions of learned counsel for the parties as well as the custody period of the petitioner and stage of trial, 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/Duty Magistrate/Illaq Magistrate, concerned.

However, this will be subject to a condition that petitioner will hand over a demand draft of Rs. 50,000/- to the trial Court/Duty Magistrate at the time of furnishing bail/surety bonds and the same will further be handed over to victim Sonu, without any prejudice to the right of defence of the petitioner.”

Counsel for the petitioner has further argued that the petitioner is in custody for the last 01 year and 05 months and the conclusion of the trial is likely to take some time due to COVID-19 situation.

Counsel for the State has, however, submitted that the petitioner is involved in some other cases/FIRs though, he is on bail as per the Custody Certificate.

Counsel for the complainant has also stated that since the petitioner has caused grievous injuries to the complainant, the petitioner be directed to pay some compensation to the complainant.

After hearing the counsel for the parties, considering the submissions made by them and in view of the long custody of the petitioner, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

This will be subject to a condition that petitioner will hand

over a demand draft of Rs. 50,000/- to the trial Court/Duty Magistrate at the time of furnishing bail/surety bonds and the same will further be handed over to the victim Sonu, without any prejudice to the right of defence of the petitioner.

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

15.09.2020

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Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No