

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-17638-2020

Date of decision: - 22.07.2020

Pawan

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Hakam Singh, Advocate,
for the petitioner.

HARSIMRAN SINGH SETHI, J. (ORAL)

This petition has been taken for hearing through video conference due to Covid-19 pandemic.

Present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in FIR No.29 dated 14.03.2020, under Sections 148, 149, 307, 323, 324 & 341 IPC and Sections 325 & 326 IPC were added later on, registered at Police Station Bhattu Kalan, District Fatehabad.

Learned counsel for the petitioner argues that subsequent to the registration of above-said FIR, Section 307 IPC has been deleted and no challan has been presented under Section 307 IPC against the

accused. Learned counsel for the petitioner submits that a similarly situated co-accused, namely, Vikas @ Kalu, has already been granted the concession of regular bail by this Court while deciding CRM-M-16399-2020 on 10.07.2020.

Notice of motion.

Ms. Aditi Girdhar, Assistant Advocate General, Haryana, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of respondents-State.

Learned State counsel, on instructions from ASI Sham Lal, concedes that no challan has been presented against the accused under Section 307 IPC. Learned State counsel further concedes that co-accused Vikas @ Kalu has already been granted the concession of regular bail by this Court.

I have heard learned counsel for the parties and have gone through the record.

As per the allegations alleged in the FIR, except co-accused Sushil Godara, all the accused have been attributed injuries with iron rod, iron pipe and wooden batons/sticks on the legs of the victim. Further, co-accused Vikas @ Kalu has already been extended the benefit of regular bail against whom the similar allegations were alleged in the FIR. Order passed by this Court in CRM-M-16399-2020 dated 10.07.2020 is as under: -

“Present petition has been filed by the petitioner, namely, Vikas @ Kalu, under Section 439 Cr.P.C. for grant of regular bail in FIR No.29, dated 14.03.2020, registered under Sections 148/149/307/323/324/341

IPC (Section 307 IPC removed later on) and Sections 325/326 IPC (added) at Police Station Bhattu Kalan, District Faridabad. Inadvertently in order dated 16.06.2020, Sections 325/326 have not been mentioned and Section 307 IPC has been mentioned.

At the outset, it must be noticed that in the final report, the police did not present challan under Section 307 IPC against the accused.

It is the case of the prosecution that the injured was returning to his village when the petitioner along with certain other persons blocked his passage and caused him serious injuries. It is alleged that Sushil Godara, a co-accused had caused injury with sharp edged weapon, whereas the remaining accused including the petitioner caused injuries with iron rod, iron pipe, and wooden batons/ sticks. Perusal of the medico legal report, shows that the injured suffered following injuries which are extracted as under:-

Sr. No.	Injuries	Marked	Injury Number
1	Lacerated wounds of size 0.5 cm x 1.5 cm, 0.5 cm x 1 cm, 1 x 1.5 cm and 1 x 1 cm present on left leg. Adv X	No	1
2	Incised wound of size 0.5 x 2.5 cm present on left parietal region. Adv. Surgeon opinion	No	2

It is apparent from perusal thereof that apart from incise wound on left parietal region, the injured suffered lacerated wounds on left leg.

The petitioner is in custody since 23.05.2020. The police has already completed the investigation. Conclusion of the trial is likely to take time.

Without commenting on the merits of the case and keeping in view the fact that the petitioner is in custody since 23.05.2020 and conclusion of the trial is likely to take time, the petitioner is directed to be released on regular bail subject to furnishing of adequate surety to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, concerned.

Accordingly, the present petition is allowed with the aforesaid directions.”

Learned State counsel has not been able to show any

differentiable fact between petitioner and co-accused Vikas @ Kalu so as to deny the benefit of regular bail to the petitioner, which has been extended to co-accused Vikas by this Court. Once, a similarly situated co-accused has been granted the benefit of regular bail, petitioner has made out a case for the grant of same benefit of regular bail.

In view of the above, without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, if not required in any other case, subject to the satisfaction of trial Court/Duty Magistrate concerned.

It is also directed that if it is found that the petitioner is trying to influence the witnesses, in any way, the respondent-State will be at liberty to file a petition for cancellation of bail.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

Present petition stands allowed accordingly.

(HARSIMRAN SINGH SETHI)
JUDGE

July 22, 2020
naresh.k

Whether reasoned/speaking?	Yes
Whether reportable?	No