

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

CRM-M-18108-2020 (O&M)
Date of decision : 23.12.2020

Pardeep Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Partap Singh, Advocate
for the petitioner.

Mr. Sandeep Maan, Addl. A.G., Haryana.

Mr. Sachin Gupta, Advocate
for the complainant.

JITENDRA CHAUHAN, J. (Oral)

The matter has been taken up through video-conferencing in the light of the pandemic COVID-19 situation and as per instructions.

CRM-31050-2020

This application has been filed for addition of Section 307 IPC in the prayer clause, in view of the changed circumstances.

Application is allowed as prayed for.

CRM-M-18108-2020

The instant petition has been preferred under Section 439 Cr.P.C. seeking bail in FIR No. 04 dated 02.01.2020 registered under Sections 148, 307, 323, 325, 427, 506, 395, 397, 379-B read with Section 149 of Indian Penal Code at Police Station Thanesar City, District Kurukshetra.

States that the petitioner has been named in the FIR on the disclosure statement of co-accused. As per the FIR, the petitioner gave Gandasi blow on the arm of complainant Rakesh Sharma and on the legs of Rajesh Kumar. As per the MLR, only blunt injuries have been found in the MLR dated 01.01.2020 (Annexure P-3) carried out upon complainant Rakesh Sharma whereas no injury has been found on the legs of Rajesh Kumar in MLR dated 01.01.2020 (Annexure P-2). Learned counsel for the petitioner states that the complainant had a grouse against the petitioner and his co-accused Malkeet Singh was assaulted by the complainant party a few weeks prior to the incident in the present case. He was given as many as nine injuries as reflected in the MLR carried out at LNJP, Hospital Kurukshetra, dated 13.12.2019 (Annexure P-7 in the connected CRM-M-24834-2020). In pursuance to the MLR, FIR was also registered and the trial is pending.

On the other hand, learned State counsel opposes the instant petition and informs that the petitioner is involved in large number of FIRs. However, he has been acquitted in five of them and two are pending decision as reflected in the reply dated 09.12.2020. As per the reply filed by the State, the complainant is also involved in four FIRs. Learned State counsel further informs that only challan has been filed in the present case and the charges have not been framed. The matter is coming up for framing of charges on 29.01.2021. He further informs that 17 witnesses have to be examined in the matter.

Whereas learned counsel for the complainant states that the acquittals were earned by the petitioner and others after extending threat to the complainant party in those cases.

Heard.

Initially, the FIR was registered under Sections 148, 149, 323, 325, 427, 506, 395, 397, 379-B IPC, however, when the conscience of the Court was not satisfied, the Court vide order dated 16.09.2020 asked for an affidavit of Superintendent of Police concerned as to how despite a number of injuries on the person of injured, Section 307 IPC has not been invoked. Now, during the pendency of the present petition, in deference to the order dated 16.09.2020 passed by this Court and on reappraisal of the evidence, Section 307 IPC has been added. The challan has been filed under Section 307 IPC as well.

Considering the period of incarceration and the fact that the challan has been presented but charges have not been framed; seventeen witnesses have been cited by the prosecution for examination and the uncertainty descended on account of the prevailing COVID-19 situation; co-accused Malkeet Singh was assaulted by the complainant party, as emanated from FIR No. 1368, dated 14.12.2019 (Annexure P-1), registered under Sections 148 and 323 read with Section 149 IPC at Police Station Thanesar City, District Kurukshetra, the Court feels that no useful purpose will be served in keeping the petitioner in further incarceration. Accordingly, this petition is allowed. The petitioner be admitted to bail during the pendency of the trial, on furnishing bail bonds with two local sureties to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

Considering the antecedents of the petitioner, the complainant shall have the liberty to approach this Court for cancellation of bail if the complainant is threatened, coerced or pressurized in any manner.

However, anything noticed hereinabove shall not be construed as an expression of opinion on the merits of the case.

23.12.2020
 jyoti-II

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No