

CRM-M-18620-2020
Date of decision: 23.07.2020

Ram Niwas

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Rajesh Duhan, Advocate
for the petitioner.

Mr. Kuldeep Tiwari, Addl. A.G., Haryana
for respondent-State.

ARUN KUMAR TYAGI, J. (ORAL)

The case has been taken up for hearing through video conferencing.

Prayer in the present 2nd petition filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') is for grant of regular bail to the petitioner in case FIR No.246 dated 28.09.2019 registered at Police Station Sadar Narwana District Jind under Sections 323, 452, 506 read with Section 34 of the Indian Penal Code, 1860 (for short 'the IPC') to which Sections 307 and 325 of the IPC were added later on.

His 1st petition for grant of regular bail was dismissed as withdrawn vide order dated 07.02.2020.

The above said FIR was registered on written complaint submitted to SHO, Police Station Sadar Narwana by Krishan Kumar. In the complaint Krishan Kumar inter alia alleged that on 25.09.2019 in the evening verbal exchanges took place between him and his brother

Kuldeep regarding irrigation from tubewell on which Kuldeep called his wife and daughter who were armed with *danda* and chased him for causing injuries but he was rescued by the persons present nearby. On 26.09.2019 at about 05.00 am when he and members of his family were sleeping on the first floor of his house and his mother was sleeping on the ground floor, then Ram Niwas armed with *jelva*, Kuldeep, Raj Bala armed with iron pipe and Siwani armed with *danda trespassed* into his house and started beating his mother. Kuldeep exhorted to kill them while Ram Niwas inflicted blow with *jelva* on the left arm of his wife. When he tried to catch hold of *jelva* of Ram Niwas, inflicted blow with *danda* on his head. Ram Niwas inflicted blow with *jelwa* on his left arm. Thereafter, they caused many injuries to them. When his wife caught *jelva* held by Ram Niwas, he (Ram Niwas) gave knee blow in her abdomen on which his wife became unconscious. When he raised hue and cry, the neighbours came who rescued them.

The petitioner has filed the present 2nd petition for grant of regular bail.

Mr. Rajesh Nain, Advocate has appeared for the complainant and undertakes to file power of attorney within a week in the Registry.

The petition has been opposed by learned State Counsel. However, no reply has been filed by the respondent-State.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. Injury on the person of wife of the complainant was self inflicted. The petitioner and the

complainant are real brothers. With the intervention of the respectables in the locality, compromise has been arrived at between them. Petition for quashing of the FIR and consequential proceedings is to be filed on the basis of compromise but the same could not be filed on account of restrictions imposed to prevent spread of Covid-19. The trial is likely to take long time. No useful purpose will be served by detention of the petitioner in custody during trial. Therefore, the petitioner may be granted regular bail.

Learned Counsel for the complainant has admitted the factum of compromise entered into by the complainant with the petitioner and has no objection if the petition for grant of regular bail to the petitioner is allowed.

Learned State Counsel has submitted that report under Section 173 (2) of the Cr.P.C. has already been filed against the petitioner but the prosecution witnesses could not be examined due to restrictions imposed to prevent spread of infection of Covid – 19. In view of gravity of offences committed, the petitioner does not deserve the concession of regular bail. Therefore, the petition may be dismissed.

Keeping in view the facts and circumstances of the case, nature of accusation against the petitioner, the factum of compromise between the petitioner and the complainant who are real brothers and the fact that trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19 but without commenting on the merits of the case, I am of the considered view that the petitioner deserves grant of regular bail.

Therefore, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of requisite bail bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

23.07.2020

kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No