

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

**CRM-M-21066-2020
Date of decision: 19.11.2020**

Krishan

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Kulvir Narwal, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This is the second petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 187 dated 23.03.2018, registered under Sections 148, 149, 323, 341, 325, 506, 302, 120-B of the IPC at Police Station Sadar, Bahadurgarh.

The first petition, bearing **CRM-M-36659-2019**, was dismissed as withdrawn on 20.01.2020.

Learned counsel for the petitioner submits that the new ground for filing the present petition is that one of the co-accused, namely Veerpal, who has also filed a second petition for grant of bail, has been granted concession of regular bail by this Court, vide order dated 20.07.2020 passed in **CRM-M-16074-2020**. The operative part of the order reads as under:

“The gist of the case of the prosecution has been noticed by the learned Additional Sessions Judge, Jhajjar, in paragraph 2, which is extracted as under:-

“2. Case of the prosecution was launched on the

application moved by complainant Ashok Kumar, who reported that on 22.03.2018, at about 6:30 PM, he was sitting in front of his house and his grand son Sarthi, aged 6 years, was playing in the street. At that time, his neighbourer Sunil came on his cycle and drove it dangerously due to which his grand son got annoyed. His son Nikesh asked Sunil to drive his cycle properly but instead of agreeing to his advice, Sunil started quarreling with Nikesh. Thereafter, Krishan and Birpal reached there and confronted the complainant about the incident. Thereafter, Sunil, Anil and Amit sons of Krishan and Mukesh threw bricks at the complainant party. Thus, complainant alongwith his son Ombir went to Police Post for lodging the report. When complainant was returning back to his house and had reached near the house of Pappal Prajapat, accused Amit, Sunil, Anil sons of Krishan, Pawan, Ankit son of Birpal, Krishan son of Hariya, Krishna wife of Krishan, Kamlesh wife of Birpal, armed with iron rods and pipes, were found present there. At that time, complainant's son Nasib and Nikesh and his nephew Pawan were coming on motorcycle. Accused Krishan alongwith his accomplices got his sons stopped and attacked upon them. They caused injuries to Nasib, Nikesh and Pawan. When Krishan, cousin of complainant, and several other persons reached there, on seeing them, accused persons fled away from the scene after threatening the complainant party with dire consequences. On his statement, formal FIR No. 187 dated 23.03.2018 under Sections 148,149,323,341,506 IPC, PS Sadar Bahadurgarh

was registered against accused persons. Later on the doctor declared the injury suffered by Pawan as grievous in nature and dangerous to life, so the offence under Section 307 IPC and 120B IPC were added. Nikesh died due to the injuries suffered by him and hence offence under Section 302 IPC was also added.”

Hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

Learned counsel for the petitioner contends that out of 2 incidents which happened, the petitioner herein is stated to have admonished Sunil in the first one, whereas in the second incident, the petitioner is alleged to have arrived subsequently and then threatened the first informant and his family members.

He submits that the petitioner is in custody for more than 2 years and 3 months. Trial of the case is progressing at a snail's pace as prosecution as of now has only examined 7 prosecution witnesses out of 27 proposed to be examined.

On the other hand, learned counsel appearing for the State has opposed the application by contending that the petitioner is involved in a heinous crime.

This court has considered the submissions and with able assistance of learned counsels for the parties, gone through the paper book.

The correctness of the facts noticed by learned Additional Sessions Judge in paragraph 2 of the impugned order is not being disputed.

Learned State counsel has informed that the petitioner does not have any criminal antecedents. The petitioner is in custody for more than 2 years and 3 months.

Keeping in view the restricted functioning of the courts due to spread of corona virus, conclusion of the trial is likely to take time.”

On the last date of hearing, learned counsel for the petitioner has submitted that the petitioner is admitted in PGIMS, Rohtak under serious medical conditions and the State was directed to file an affidavit of the Investigating Officer after obtaining the opinion of the consulting doctor.

In compliance thereof, the affidavit of the Investigating Officer along with the opinion of Dr. Vaibhav has been filed today (Annexure R-1), wherein the doctor has opined that patient/petitioner admitted in PGIMS, Rohtak on 21.10.2020 with complaint of chest pain and shortness of breath and patient cannot be discharged due to his current medical conditions as he needs continuous oxygen therapy.

Learned counsel for the petitioner further submits that since the petitioner needs routine medical care for which, the petitioner may opt for treatment from a private hospital, he may be enlarged on regular bail.

Learned counsel for the petitioner further submits that petitioner is in judicial custody for the last more than two years and seven months; all the material witnesses stand examined; only formal witnesses remain to be examined and in view of the observations made in aforesaid order dated 20.07.2020, the trial is not likely to conclude.

Learned State counsel, in view of aforesaid of the Investigating Officer and opinion of the consulting doctor, could not dispute the factual position.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the opinion of the consulting doctor and also in view of the fact that petitioner is in judicial custody for the last more than two years and seven months and all the material witnesses stand examined, 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.

19.11.2020

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No