

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

205

**CRM-M-31069-2020 (O & M)
Date of Decision:17.11.2020**

MAINPAL

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Ms. Amandeep Gill, Advocate for
Mr. Sushil Sheoran, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

SUVIR SEHGAL, J.(ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

CRM-28058-2020

Prayer in the application is for placing on record the MLR of complainant dated 11.06.2020 as Annexure P-4 and Opinion of Doctor dated 11.07.2020 as Annexure P-5.

For the reasons given in the application, the same is allowed. Copy of the MLR and Opinion of Doctor are taken on record as Annexures P-4 and P-5 respectively.

Main Case

Instant petition has been filed under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.148, dated 12.06.2020 registered under

Sections 323/452/506/34 of the Indian Penal Code, 1860 (Sections 325/307 IPC added later on) at Police Station Badhra, District Charkhi Dadri.

Counsel for the petitioner has argued that the complainant had abused the petitioner on phone and provoked him, as a result of which, the petitioner attacked the complainant, who was on the roof top and in the scuffle, the complainant fell down from the roof and suffered an injury in a spine. By referring to the MLR, Annexure P-4, and opinion of the Doctor, Annexure P-5, counsel submits that this injury has been declared to be grievous to life. However, counsel submits that there was no *mens rea* to cause the injury and as such the provisions of Section 307 IPC are not attracted. Counsel has further made a reference to the statement, Annexure P-2, of Jaivir, eye witness, to support his assertion. According to him, the complainant and the petitioner are neighbours and cause of the fight was some previous enmity between the two. Counsel submits that the petitioner, who has unblemished antecedents, is in custody since 15.07.2020, the challan has been filed, and as the trial is not progressing, the petitioner deserves to be enlarged on bail.

Per contra, State counsel upon instructions from SI Rajkumar, has referred to the allegations leveled in the FIR to submit that even after the complainant was pushed from the roof, the petitioner jumped on him and started beating him. He has instructions to state that as a result of the injury, the complainant continues to be bed ridden till date. Upon instructions, he does not dispute the custody period and submits that the challan was presented on 07.09.2020 but the charges are yet to be framed. He has further instructions to submit that the petitioner was involved in an FIR lodged under Section 354-A IPC, though he stands acquitted.

I have considered the rival submissions of the counsel for the parties.

Considering the period of incarceration of the petitioner, the nature of allegations, gravity of offence and the fact that the trial will take time to conclude because of the spread of the contagion, no useful purpose would be served by keeping the petitioner in further detention. Without commenting anything on the merits of the case, the petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

17.11.2020
Sheetal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No