

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

105-A

CRM-M-33588-2020

Date of decision: 11.12.2020

Aman

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Rajesh Sethi, Advocate
for the petitioners.

Mr. Ranvir Singh Arya, Addl. A.G., Haryana
for the respondent-State.

Mr. Gurvinder Singh Sidhu, Advocate
for the complainant.

ARUN KUMAR TYAGI, J (ORAL)

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

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.315 dated 23.05.2020 registered under Sections 323, 324, 188 read with Section 34 of the Indian Penal Code, 1860 (for short 'the IPC') in Police Station City Sirsa, District Sirsa to which Section 326 of the IPC was added lateron.

The present FIR was registered on statement of complainant Ramu who alleged that on the intervening night of 22/23.05.2020 at about 01:30 A.M., when he was sleeping in front of shop No.17, under the shed of Additional Mandi and his brother Vicky was sleeping inside shop No.19 and his brother Anil was sleeping outside shop No.19, a white coloured car stopped in front of shop

No.19 out of which four occupants alighted while having swords in their hands and they all started giving sword blows on the hands as well as neck of his brother Anil who raised noise which attracted the complainant and his brother Vicky who saw Aman Pahalwan and Rahul Adiwai (petitioner) along with two other unknown persons giving sword blows to their brother Anil. When they challenged, all the assailants fled from the spot with their respective weapons.

The petitioner who is in custody since his arrest has filed the present petition for grant of regular bail.

The petition has been opposed by the learned State Counsel in terms of reply filed by Deputy Superintendent of Police, HQ Sirsa and additional reply filed by Superintendent of Police, Sirsa and by learned Counsel for the complainant in terms of reply filed in CRM-M-31490-2020 (O&M) which have been adopted in the present case.

I have heard learned Senior Counsel for the petitioner, learned State Counsel and learned Counsel for the complainant and have gone through the relevant record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. As per reply filed by the complainant and affidavits of complainant-Ramu and injured-Anil Kumar the petitioner is alleged to have given kick blows to injured-Anil Kumar and grievous injury caused with sharp edged weapon is attributed to co-accused Rahul or Sandeep. Co-accused Sandeep and Ravi Kumar have been granted anticipatory bail by the Coordinate Bench of this Court vide order dated 29.09.2020 passed in CRM-M-16008-2020 and CRM-M-17895-2020. Challan has been filed. Charges

are yet to be framed and the trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19. No useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel has argued that the petitioner along with his co-accused caused injuries to Anil Kumar with Sword. Grievous injury caused with sharp edged weapon to Anil Kumar is attributed to the petitioner. In view of the nature of accusation and gravity of the offences committed by the petitioner, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

Learned Counsel for the complainant has submitted that grievous injury caused with sharp edged weapon is attributed to either the co-accused Rahul or Sandeep and the same is not attributed to the petitioner. However, in view of the nature of accusation and gravity of the offences, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

In the present case who caused grievous injury with sharp edged weapon on the left arm of injured-Anil is a disputed question as the Investigating Officer on the basis of statement of injured-Anil recorded by him stated that the same was attributed to the petitioner but the complainant and injured-Anil are attributing the same to either co-accused Rahul or Sandeep.

Keeping in view the facts and circumstance of the case, nature of accusation against the petitioner, the fact that the case involves disputed question as to author of the grievous injury caused

with sharp edged weapon to injured-Anil Kumar, period of custody of the petitioner, filing of challan, grant of anticipatory bail to co-accused Sandeep and Ravi Kumar by the Coordinate Bench and also the fact that the trial is likely to take long time due to restrictions imposed to prevent spread of Covid-19, but without commenting on the merits of the case, I am inclined to extend the concession of regular bail to the petitioner.

In view of the above, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

11.12.2020

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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