

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

**CRM-M No.42982 of 2019  
Date of Decision : 22.09.2020**

Vinod

.....Petitioner

Versus

State of Haryana

.....Respondent

**CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

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

Mr. Anmol Malik, Dy. Advocate General, Haryana  
for the Respondent/State.

Mr. Yashveer Kharb, Advocate  
for the Complainant.

**SUDIP AHLUWALIA, J. (ORAL)**

The instant Petition has been filed under Section 439 of the Code of Criminal Procedure seeking Regular Bail on behalf of the Petitioner in case FIR No.438, dated 21<sup>st</sup> June, 2017, registered under Sections 323, 341, 506, 34, 379-B, 120-B of the Indian Penal Code (Sections 216, 201, 302 of the IPC added later on), at Police Station Samalkha, District Panipat, Haryana.

2. It may be mentioned that originally the Petitioner was granted Regular Bail by this Court on 15<sup>th</sup> February, 2018 in CRM-M No.4969 of 2018 vide Order Anneuxre P-1 by considering that very

limited role was attributed to him in the alleged occurrence narrated in the FIR. In fact, the Petitioner was not even present at the place of occurrence but his name had transpired from the shouting of co-accused Inder at the other Culprits who had assaulted the Complainant/Victim, to the effect that the Victim should not be hit on his head as was allegedly explained by uncles Parkash, Raunak and Vinod (the present Petitioner) and to be hit 'only below the waist'.

3. The FIR therefore would go to clearly show that even assuming that the Petitioner was part of any criminal conspiracy, yet he was certainly not in favour of causing murder of the Victim, but was of a mind only of causing him injuries below the waist, and if the victim succumbed in the assault on account of being attacked on his head by the Culprits, it was clearly beyond the specific instruction of their three uncles, including the present Petitioner. As such, he cannot be held liable for causing the murder, and such liability in all fairness would be of the actual assailants.

4. However, after the Petitioner was granted Regular Bail on 15<sup>th</sup> February, 2018, a Co-ordinate Bench of this Court cancelled the same subsequently on 13<sup>th</sup> December, 2018 in CRM-M No.33426 of 2018 after observing that the Petitioner and his co-accused Raunak appeared to be putting pressure upon the Complainant (who till that

time was yet to be examined in the Ld. Trial Court) and the two accused persons were seen to have put a Video on *Facebook* showing guns in their hands and raising *lalkaras* etc.

5. Submission of Ld. Counsel for the Petitioner, in this regard, is that the alleged *Facebook* posting referred to in the Order passed by the Co-ordinate Bench on 13<sup>th</sup> December, 2018 is inconsequential and out of context. On the other hand, contention of Petitioner's Counsel is that after his Client was first incarcerated, he was repeatedly approached by the Complainant and his son, namely Sahil to pay them money in lieu of allowing them to be exonerated. To support this contention, Ld. Counsel for the Petitioner has placed on record the Information (Annexure P-4, Collectively) supplied by the Superintendent of Jail, Panipat in which the Petitioner was detained, which goes to reveal that Sahil-son of Complainant-Dalbir had visited the Petitioner on two occasions, ostensibly to press for their demand of money in order to facilitate his release. In addition, Transcripts of certain Telephonic conversations between the Petitioner, his son-Monu, Complainant-Dalbir and his son-Sahil on several dates such as 6<sup>th</sup> December, 2018, 9<sup>th</sup> December, 2018, 11<sup>th</sup> December, 2018, 31<sup>st</sup> December, 2018, 17<sup>th</sup> March, 2019 and 22<sup>nd</sup> March, 2019, have been mentioned in the Bail Petition, which would go to indicate that for a

long time pressure was being created upon the Petitioner to pay a huge amount of money to buy his freedom in the present proceedings.

6. Ld. Counsel appearing for the Complainant however submits that if these Telephonic recordings were to be genuine, the Petitioner ought to have referred to the same during cross-examination of his Client in the Ld. Trial Court.

7. This submission, in the opinion of the Court, is altogether inappropriate, as the method and sequence of planning and raising the defence by an accused is purely the prerogative of himself or his Counsel in the concerned Court and no advice from any quarters, least of all from the Complainant's side, would appear to be called for, as to how they should go about in conducting their defence. Furthermore, it transpires that in any event, the evidence of the Complainant has already been recorded in the Ld. Trial Court, which was the foremost consideration in the mind of the Ld. Co-ordinate Bench which had earlier cancelled the original bail granted to the Petitioner, in view of the apprehension that the Complainant, who was the principal witness, could be threatened if the Petitioner was permitted to continue on bail. But that stage has already passed now.

8. The Petitioner by now has undergone imprisonment for almost 02 years in the present case and on account of Covid-19

Pandemic, it is not likely that the Trial would be completed within a reasonable short period of time.

9. In the circumstances, without commenting upon the other merits of the case and keeping in view the fact that the trial is likely to take a considerable time to conclude in view of the on-going Covid-19 Pandemic, at this stage, this Court is of the opinion that further detention of the Petitioner for an indefinite period is not justified. As such, he is ordered to be released on bail subject to the satisfaction of the Ld. Trial Court/Duty Magistrate concerned.

10. Disposed off.

**September 22, 2020**

**Dpr**

**(SUDIP AHLUWALIA)  
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No