

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-6161-2021 (O&M)
Date of decision: 31.03.2021

Surender Singh @ Sinder

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

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

Mr. Deepak Kumar Grewal, DAG, Haryana.

Mr. Sachin Gupta, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.04 dated 02.01.2020 under Sections 148, 149, 323, 325, 427, 506, 395, 397, 379-B IPC, registered at Police Station Thanesar City, District Kurukshetra.

Learned counsel for the petitioner submits that the petitioner was not named in the FIR and his name surfaced on the basis of disclosure statement of co-accused Malkeet Singh, who has already been granted the concession of regular bail vide order dated 23.12.2020 passed in CRM-M-24834-2020. It is further submitted that some other co-accused Mohit @ Bunti, Pardeep Kumar

and Rajender have also been granted the concession of regular bail vide order dated 23.06.2020 passed in CRM-M-14257-2020, order dated 23.12.2020 passed in CRM-M-18108-2020 and order dated 12.02.2021 passed in CRM-M-5596-2021 respectively. The operative part of the order dated 23.12.2020 passed in CRM-M-24834-2020 reads as under: -

“The instant petition has been preferred under Section 439 Cr.P.C. seeking bail in FIR No.04 dated 02.01.2020 registered under Sections 148, 307, 323, 325, 427, 506, 395, 397, 379-B read with Section 149 of Indian Penal Code at Police Station Thanesar City, District Kurukshetra.

States that as per the FIR, the petitioner has been attributed injury on the person of Rajesh Kumar Bansal on his head and hands and all the injuries have been found to be simple in the nature, as reflected in the MLR dated 01.01.2020 (Annexure P-3). The injured was discharged after admission for a couple of days. The medical evidence is contrary to ocular account. As per MLR there is no corresponding injury of Gandasi as alleged by the prosecution. The opinion of the doctor dated 27.01.2020 (Annexure P-4) suggests that no injury is dangerous to life. The petitioner is in custody since 20.01.2020.

Learned counsel for the petitioner further states that the complainant had a grouse against the petitioner and the petitioner was assaulted by the complainant party a few weeks prior to the incident in the present case. He was given as many as nine injuries

as reflected in the MLR carried out at LNJP, Hospital Kurukshetra, dated 13.12.2019 (Annexure P-7) In pursuance to the MLR, FIR No. 1368 dated 14.12.2019 was also registered and the trial is pending.

Learned State counsel informs that the petitioner is involved in large number of FIRs. However, he is on bail on all the cases. As per the reply filed by the State, the complainant is also involved in four FIRs. Learned State counsel further informs that only challan has been filed in the present case and the charges have not been framed. He further informs that seventeen witnesses have to be examined in the matter.

Heard.

Initially, the FIR was registered under Sections 148, 149, 323, 325, 427, 506, 395, 397, 379-B IPC, however, when the conscience of the Court was not satisfied, the Court vide order dated 16.09.2020 asked for an affidavit of Superintendent of Police concerned as to how despite a number of injuries on the person of injured, Section 307 IPC has not been invoked. Now, during the pendency of the present petition, in deference to the order dated 16.09.2020 passed by this Court and on reappraisal of the evidence, Section 307 IPC has been added. The challan has been filed under Section 307 IPC as well.

Considering the fact that the petitioner is in custody since 20.01.2020; only the challan has been presented but charges are

yet to be framed; seventeen witnesses have been cited for examination by the prosecution and the petitioner was assaulted by the complainant party, as emanated from FIR No. 1368, dated 14.12.2019 (Annexure P-2), registered under Sections 148 and 323 read with Section 149 IPC at Police Station Thanesar City, District Kurukshetra, the Court feels that the further incarceration of the petitioner is not warranted as the trial is not likely to be concluded in the near future. Accordingly, this petition is allowed. The petitioner be admitted to bail during the pendency of the trial, on furnishing bail bonds with two local sureties to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned...”

For the sake of brevity, facts, as noticed in the aforesaid order, are not reproduced.

Learned counsel for the petitioner has argued that the petitioner is in custody since 20.01.2020 and a period of more than 01 year and 02 months has lapsed. It is further submitted that the challan has been presented, however, the charges are yet to be framed, therefore, it will take long time in conclusion of the trial.

Learned State counsel, assisted by learned counsel for the complainant, has, however, submitted that the petitioner is involved in some other cases, though he is on bail in those cases, as per the custody certificate dated 30.03.2021 filed in the Court today. Learned State counsel has also filed the reply by way of affidavit of Additional Superintendent of Police, City

Kurukshetra.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the fact that the petitioner is in custody for the last more than 01 year and 02 months and his aforesaid co-accused have already been released on regular bail, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

31.03.2021
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No