

CRM-14203-2021 in/and
CRM-M-11794-2021

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-14203-2021 in/and
CRM-M-11794-2021
Date of Decision: 20.05.2021

Aman

.. Petitioner

Vs.

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Surya Parkash, Advocate for the petitioner.

Mr. Sukhdeep Parmar, DAG, Haryana.

...

Manoj Bajaj, J. (Oral)

CRM-14203-2021

The instant application is for pre-poning the date of hearing of the main petition to an early date.

Notice in the application.

At this stage, Mr. Sukhdeep Parmar, DAG, Haryana, accepts notice on behalf of the respondent-State and does not oppose the prayer.

Application is allowed and the date of hearing is pre-poned to today itself.

CRM-M-11794-2021

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail, pending trial in case FIR No.143 dated 23.03.2020 registered under Sections 147/148/323/379-B/427/452/506/120-B/325/307 IPC at Police Station NIT Faridabad, Haryana. The petitioner is in custody since his arrest on 01.06.2020.

The FIR was registered on the statement of Pardeep Kumar and the allegations noticed by the Addl. Sessions Judge, Faridabad in the order dated 01.09.2020, while declining the bail application of petitioner, read as under:

“In nutshell, the prosecution case is that on 23.02.2020, Pardeep Kumar came to the police station and moved an application stating that two days ago, there was some altercation of his brother Yogesh with Vinay, Manish and Raju in Vivekanand Park. He alleged that in view of enmity, on dated 22.03.2020 at about 11:30 p.m. To 12:15 a.m., after making planning, Raju and Manish came to their house and had assaulted him. They overturned the cot of his father, who ran away and intimidated to him and his maternal uncle Lala. He and his maternal uncle came on the spot and saw that Madhav, Vijay, Manish, Raju, Aman (applicant), Deepak Nagar, Manu, Tunny along 4-5 more persons were beating Yogesh. He also alleged that Madhav, Raju and Vijay were armed with iron pipes, Manish was armed with brick and gave a blow on the head of Yogesh and other accused were armed with danda and were beating his brother Yogesh. The complainant and his maternal uncle Lala intervened and rescued him. They also inflicted injuries on their person and ran away in their three vehicles i.e. Santro, Swift and Bolero. The part of the incident was recorded in CCTV footage. When he take care of his brother, it was found that gold chain and Rs.6,000/- were found missing from his pocket. It has also alleged that they had damaged the household items and Rs.50,000/- were found missing from the house and prayed that action be taken against them.”

Learned counsel for the petitioner has argued that the investigation of the case is complete and even charges have been framed by the trial Court on 15.12.2020, but the trial is yet to commence, as no prosecution witness has been examined so far, therefore, it is evident that trial will consume considerable time to conclude. He further submits that the co-accused of the petitioner have already been released on bail by the trial Court vide order dated 08.04.2021 and 23.04.2021 respectively. He has produced the copies of the orders during the course of hearing. He prays for bail.

On the other hand, learned State counsel assisted by ASI Shiv Kumar, has opposed the prayer on the ground that the offence is serious and the petitioner also participated in the crime. It is pointed out by him that the injury suffered by Yogesh on his head was found to be dangerous to life, therefore, the offence punishable under Section 307 IPC was also added. He submits that as a result of injury, the said injured is bedridden and even his statement under Section 161 Cr.P.C has not been recorded. He prays that the petition be dismissed.

At this stage, learned counsel for the petitioner has highlighted the conduct of injured by inviting the attention of the Court to the contents of para 8 in the order dated 08.04.2021 passed by the trial Court while dealing with the prayer of bail by the co-accused, namely, Madhav and Manoj @ Mannu, which read as under:

“In order to rebut the stand of learned Public Prosecutor for the State, learned counsel for the applicants submitted that after the incident, the injured has entered into a compromise in another case, i.e., FIR No.160 dated 21.03.2020, under Sections 323, 34, 506 IPC, P.S. Kotwali, Faridabad, whereby injured has appeared before the Court of Ms. Seema, Id. JMIC, Faridabad on 14.10.2020 and on the basis of his statement, a quashing petition was filed before the Hon'ble High Court. He also submitted that injured Yogesh is also attending various parties and uploading his pictures on the face-book. The photocopies of the same are also enclosed alongwith the bail application. He urged that the injured is fit to make statement but intentionally evading and re-urged that the bail my be granted.”

In view of above, learned counsel for the petitioner presses his prayer for regular bail.

After hearing the learned counsel for the parties, considering the custody of the petitioner and the fact that no prosecution witness has been examined so far, therefore, the trial is likely to consume considerable time to conclude. Apart from it, the belligerent re-emergence of pandemic

COVID-19 in the region has once again forced the state governments of Punjab, Haryana and U.T. Administration, Chandigarh to impose various restrictions to clamp down the contagion, and it would further delay the conclusion of trial. Even otherwise, the material proscution witnesses are either injured, his relatives or officials of police and there does not seem to be any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

The petition is allowed.

20.05.2021
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No