

In virtual Court

CRM-M-12714-2021

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-12714-2021 (O&M)
Date of decision: 09.08.2021

Satyawan

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. B.S. Saroha, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.123 dated 18.05.2020 under Sections 148, 149, 323, 452, 302 IPC, registered at Police Station Barauda, Tehsil Gohana, District Sonapat.

Learned counsel for the petitioner relies upon the order dated 25.02.2021 passed in CRM-M-41075-2020, CRM-M-41369-2020 and CRM-M-42180-2020, vide which three co-accused namely Parveen, Ishwar and Ravinder have been granted the concession of regular bail. The operative part of the order reads as under: -

“...Learned counsel for the petitioners with regard to the accused

Parveen, Ishwar and Ravinder have relied upon the order dated 17.11.2020 vide which, one of the co-accused Sunil was granted the concession of regular bail in CRM-M-29969 of 2020. The operative part of the order reads as under:-

“Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.123 dated 18.05.2020, for offence punishable under Sections 148, 149, 302, 323, 452 of the Indian Penal Code, 1860 (in short 'IPC') registered at Police Station Baroda, Gohana, District Sonapat.

Counsel for the petitioner has argued that as per the allegations in the FIR, registered at the instance of Bijender, his family is having a civil litigation against Rampal son of Giani Ram and the Civil Court has decided the case in favour of the complainant party. On 17.05.2020, Rampal, Satyawar, Parveen, Iswar, Rajesh, Jai Bhagwan, Rajbir, Omi, Sunil (petitioner herein), Neeta, Sonu, Ravinder and Monu, who belong to the family of Rampal, started throwing bricks at the house of the complainant and when the complainant, his brother Narinder and elder brother Jagbir came out to see what is happening, the aforesaid persons armed with weapons attacked them.

Rampal hit Bijender with a brick on his head and left shoulder, Monu hit his brother Narinder with a brick on his face and Rajbir hit on the legs and the arms with sticks and danda. Jai Bhagwan and Sonu caused injuries to Jagbir with brick, who was standing at verandah on the terrace of the house, which hit on the chest and back, due to which, he succumbed to his injuries while taking to PGI, Rohtak. It is further submitted that in fact, it was a case of free fight in which from the petitioner's side, 02 persons namely Jai Bhagwan and Rajbir, also suffered injuries and in this regard, a DDR has been registered with the police for treating it as a cross-version.

Counsel for the petitioner has also submitted that the petitioner – Sunil, though, named in the FIR but no specific role is attributed to him except that he was present at the spot. It is further submitted that neither any recovery is effected from the petitioner nor his disclosure recorded regarding his participation in the commission of offence is signed by him.

Counsel for the petitioner has also submitted that challan stands presented and it will take long time in conclusion of the trial. It is also submitted that the petitioner is not involved in any other case.

Counsel for the State has filed the affidavit of the Additional Superintendent of Police, Gohana, Sonapat and has not disputed the factual position as per the allegations in the FIR as well as the MLRs relied upon by the petitioner but opposed the prayer for bail.

After hearing the counsel for the parties and going through the contents of the FIR; MLRs relied upon by the petitioner as well as the role of the petitioner; and also in view of the fact that in the affidavit also, there is no role attributed to the petitioner; challan stands presented; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.”

For the sake of brevity, the facts are not reproduced again.

Learned counsel for the petitioner Parveen has argued that

as per the affidavit of the IO/Inspector, the petitioner has given slaps and fist blows to the injured witnesses.

Learned counsel for the petitioner-Ishwar has argued that he has also attributed the simply injury to witness Narender.

Learned counsel for the petitioner-Ravinder has submitted that though his name in the FIR, however, no specific injuries have been attributed to him.

Learned State counsel, on the basis of the separate affidavits filed in all the cases, could not dispute the arguments raised by learned counsel for the petitioners. It is stated that from Ishwar and Ravinder, a baton was recovered from them.

As per the custody certificate filed in Court, all the petitioners are in custody for the last about 09 months.

Learned State counsel further submits that Challan stands presented on 07.07.2020 and case is now fixed for framing of charges.

After hearing learned counsel for the parties and without commenting anything on merits of the case, these petitions are allowed and the petitioners Parveen, Ishwar and Ravinder are directed to be released on regular bail subject to their furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for

cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.”

For the sake of brevity, facts are not reproduced again.

Learned counsel for the petitioner submits that as per allegations in the FIR, though the petitioner was shown present at the spot along with 10 other accused persons, however, there is no specific allegation against him that he has caused any injury to the victim. It is further submitted that nothing was recovered from the petitioner and he is in custody for 01 year, 02 months and 14 days and is not involved in any other case.

Learned State counsel has filed the custody certificate dated 06.08.2021 as well as reply by way of affidavit of the Investigating Officer/ASI Anil Kumar, Incharge, Police Post Butana, Police Station Barauda, Sonipat in the Court today. In the affidavit, it is stated that five persons namely Rampal, Monu, Narender, Rajbir and Jai Bhagwan had caused injuries to the victim. It is further stated in the affidavit that the petitioner was also present with co-accused, however, nothing is stated that he has caused any injury. It is also stated that half brick was recovered from the petitioner.

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 01 year, 02 months and 14 days and is not involved in any other case; his similarly situated co-accused have already been released on regular bail and also in view of allegations against him, this petition is allowed

In virtual Court

CRM-M-12714-2021

-7-

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

09.08.2021
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No