

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH
(113+212)**

**CRM-M-18134-2021(O&M)
Date of decision:- 05.08.2021**

Jasdeep Singh @ Jash

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Rakesh Gupta, Advocate for the applicant-petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

...

SUVIR SEHGAL, J. (ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

CRM-22795-2021

For the reasons given in the application, it is allowed.

Annexures P-9 to P-11 are taken on record.

CRM-M-18134-2021

This is the second petition under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of regular bail in case FIR No.396 dated 01.09.2020 under Sections 148, 149, 323, 325 and 506 of the Indian Penal Code, 1860 (Section 307 of IPC was added later on), registered at Police Station Mahesh Nagar, District Ambala.

As per the case set up by the prosecution, FIR was registered on the complaint of Rajdeep Singh on the allegation that on 31.08.2020 at about 07:00 P.M., when he was sitting outside his house with Kamal and

Aryan, five boys came on two motorcycles. Three of them were carrying iron pipes with “grari” and the remaining two were armed with wooden “bindas” and inflicted grievous injuries on them.

Counsel for the petitioner submits that a false case has been registered against the petitioner and he was not involved in the incident. He has referred to the deposition of complainant-Rajdeep and injured-Kamal and Aryan (Annexures P-9 to P-11, respectively) to contend that all the three material witnesses produced by the prosecution have stated in their examination-in-chief stated that they were attacked by unknown assailants and they cannot identify them. Counsel has stressed on the fact that all the three witnesses have categorically stated that “Accused present in the Court are not the same persons who assaulted us.” Counsel submits that the trial is at initial stage, and the petitioner, who has unblemished antecedents and is in custody since 05.09.2020, deserves to be released on bail. Still further, it is contended that Section 307 has been attributed to co-accused, namely, Sarabjit Singh @ Sabi, who has been released on bail by the Sessions Court vide order dated 20.07.2021. Counsel submits that the first petition seeking regular bail was withdrawn from this Court on 29.01.2021 by moving an application and thereafter, the petitioner approached the Sessions Court and his petition was declined vide order dated 12.04.2021 (Annexure P-8). It is his argument that after the withdrawal of the first petition, the statement of the star witnesses of the prosecution has been recorded and they have not supported the version of the prosecution, which is a change in the circumstances enabling him to file the second petition.

Opposing the petition, upon instructions from SI Vishavjit Singh, State counsel has referred to the allegations in the FIR and submitted that not only the petitioner has been specifically named in the FIR, but specific injury has also been attributed to him. He submits that considering the nature of the injury attributed to the accused, offence under Section 307 was added in the FIR. As per his instructions, recovery of iron pipe with “grari” has been effected from the petitioner.

Having considered the arguments addressed by the counsel for the parties, this Court is of the view that the material collected by the prosecution remains debatable and the petitioner, who is in incarceration for the last 11 months, deserves to be enlarged on bail.

Without commenting on the merits or demerits of the arguments raised by the counsel for the parties, the petition is allowed and the petitioner, namely, Jasdeep Singh @ Jash, is ordered to be released on bail on his furnishing heavy bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

05.08.2021

Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No