

CRM-M No.18616 of 2021

Date of Decision : 21.05.2021

Gulshan and others

...Petitioners

Versus

State of Haryana

....Respondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. R.S. Mamli, Advocate for the petitioners.

Mr. Krishan K. Chahal, Addl. AG, Haryana.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.
2. Prayer in the petition under Section 439 Cr.P.C. is for grant of regular bail to the petitioners in case FIR No.0019 dated 02.02.2021 registered under Sections 148/149/323/341 and 506 IPC (to which Sections 325 and 308 IPC were added subsequently) at Police Station Jathlana, District Yamuna Nagar.
3. Learned counsel contends that the only act attributed to petitioner No. 1 i.e. Gulshan is of wrapping a chain around the neck of the complainant and pushing him down while petitioner No. 2 i.e. Rasid @ Rashida, inflicted a blow on the back and shoulder of the complainant with a *binda*, i.e. wooden rod, with an iron ring inserted on the wooden rod *likewise*

petitioner No. 3 i.e. Danish inflicted a *danda* blow on the shoulder of the complainant with a *binda*.

4. Learned counsel contends that the injury *qua* which offence under Section 308 IPC has been added i.e. blow on the head with an iron rod was inflicted by Sonu. Learned counsel further contends that there is no other criminal case registered against the petitioners and that investigation *qua* the petitioners is also complete and they are in judicial custody, no recovery is to be made, besides, trial will take long period of time, therefore, no useful purpose would be served by keeping the petitioners behind bars, as there is no risk of the petitioners fleeing from justice or of tampering with the evidence.

5. Notice of motion.

6. Mr. Krishan K. Chahal, learned Addl. AG, Haryana, accepts notice and on instructions from *SI Same Singh* informs that the injury inflicted with an iron rod on the head of the complainant is attributable to Sonu whereas, the petitioners inflicted the injuries as have been noted above.

7. Learned State counsel further states that the complainant has since been discharged from hospital and that investigation *qua* the petitioners is complete and they are in judicial custody. Learned Addl. A.G. also confirms that no other criminal case is registered against the petitioners.

8. Accordingly, taking into account all aspects of the matter including that injury in respect of which Section 308 IPC has been added is not attributed to the petitioners but to Sonu (co-accused) whereas the petitioners are attributed injuries with *danda* containing *binda* on the back and shoulder and wrapping of chain around the neck, besides investigation is

complete, petitioners are in judicial custody, trial would take considerable period of time due to circumstances prevailing on account of Corona Virus Pandemic and no apprehension has been expressed of the petitioners fleeing from justice or of tampering with evidence, no useful purpose would be served by keeping the petitioner behind bars. Accordingly, without commenting on the merits of the case, the petition for regular bail is **allowed** and the petitioners are ordered to be released on regular bail, subject to their furnishing bail/surety bonds to the satisfaction of the learned CJM/Trial Court/Duty Magistrate, concerned, provided they are not required in any other case and subject to their appearing before the learned trial Court on each and every date. The petitioners shall also abide by the conditions contained in Section 437(3) Cr.P.C.

09. Needless to mention, in case the petitioners default in appearance before the learned trial Court on any of the dates during trial of the case, it would be open to the prosecution to move an application for cancellation of bail granted to the petitioners.

10. Petition disposed of in the aforementioned terms.

(B.S. Walia)
Judge

21.05.2021

'Rajneesh/Amit'

<i>Whether speaking/ reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>