

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

108

**CRM-30511-2021 in
CRM-M-19505-2021.
Date of Decision: 24.09.2021.**

Rajbir Singh @ Giani

....Applicant/Petitioner.

Versus

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Ms. Rupinder Kaur Thind, Advocate for applicant/petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video
Conferencing.

CRM-30511-2021

This application under Section 482 Cr.P.C. has been moved by
applicant/petitioner seeking preponement of date of hearing of the main
case, which is already fixed for 26.10.2021.

Notice of application.

At the asking of Court, learned State counsel accepts notice and
submits that he has no objection in case the application is allowed.

In view of the grounds mentioned in the application and no
objection by learned State counsel, hearing of the main petition is preponed
and the same is taken on Board today itself.

CRM is allowed.

Main Case

This second petition under Section 439 Cr.P.C for grant of regular bail

dated 15.05.2020 under Sections 148, 186, 188, 270, 308, 323 and 353 IPC read with Section 149 IPC, registered at Police Station Gate Hakima, District Police Commissionerate, Amritsar.

Learned counsel for the petitioner *inter alia* contends that prosecution version, as alleged, is totally concocted one and there is no iota of truth therein. She further urges that allegedly on 14.05.2020 when complainant- Assistant Sub Inspector Ashwani Kumar alongwith his colleague Assistant Sub Inspector Ashwani Kumar No.3760 was on duty, they were attacked by petitioner and co-accused and allegedly petitioner hit him (complainant) with a brick on his head. She further urges that co-accused Ajay, to whom *Lalkara* has been attributed, said Ajay has already been found innocent by the Police during the course of investigation. She further urges that since during the course of investigation, a stone was recovered, faced with this situation, complainant- Assistant Sub Inspector Ashwani Kumar had retracted from his statement thereby amending his stand that petitioner had hit him with a stone and not with a brick. She further urges that co-accused Ritik @ Kala, to whom alleged injury on the nose of complainant has been attributed, said accused has already been extended the concession of bail by Sessions Court, vide order dated 01.07.2020 (Annexure P/12), whereas co-accused namely Sandeep Dutt @ Deepu and Mani Singh @ Mani @ Mattu have also been admitted to regular bail by the Sessions Court, vide orders dated 01.07.2021 and 03.03.2021 (Annexures P/13 and P/14 respectively). She further urges that petitioner is languishing in custody since 29.10.2020 and he is no more required by the Police for any investigation purpose as after completion of investigation, final report under Section 173 Cr.P.C. (*Challan*),

urges that during the course of trial, out of total nineteen (19) prosecution witnesses, only one (1) prosecution witness has been examined till date and, thus, trial is going on at snail's pace. She further submits that since trial of the case would take sufficient time to conclude, no useful purpose would be served by keeping the petitioner in custody further and he may be released on bail.

On the other hand, learned State counsel while opposing instant petition has vehemently argued that instant FIR was registered on the statement of complainant-Assistant Sub Inspector Ashwani Kumar that on 14.05.2020, when he alongwith his colleague Assistant Sub Inspector Ashwani Kumar No.3760 was present on his duty, he was attacked by the petitioner and co-accused. He further urges that injured/complainant-Assistant Sub Inspector Ashwani Kumar suffered fracture of nasal bones bilaterally, as is evident from report (NCCT Scan Head) dated 16.05.2020 (Annexure P/8). He further submits that petitioner is the main accused as he has inflicted injuries on the head of complainant with a brick. He further urges that antecedents of petitioner are not upto the mark as he is also involved in four more criminal case FIRs, details of which are as under:-

“(1) FIR No.104 dated 01.07.2018 under Section 52-A of Prisons Act, 1894, registered at Police Station Islamabad, District Police Commissionerate, Amritsar.

(2) FIR No.117 dated 07.05.2018 under Sections 21 and 29 of NDPS Act, registered at Police Station Gate Hakima, District Police Commissionerate, Amritsar.

(3) FIR No.141 dated 08.07.2019 under Sections 120-B, 380 and 457 IPC read with Section 34 IPC, registered at Police Station Civil Lines, District Amritsar.

(4) FIR No.35 dated 30.01.2020 under Sections 148 and 379-B(2) IPC read with Section 149 IPC and Sections 25 and 27 of Arms Act, registered at Police Station Sadar, Amritsar, District Amritsar.”

Learned State counsel further urges that previous petition (CRM-M-42935-2020) seeking regular bail by the petitioner was dismissed as withdrawn, vide order dated 04.03.2021 (Annexure P/10). He further urges that complainant-injured and material prosecution witnesses are yet to be examined. He further submits that in view of seriousness of offence and specific role attributed to petitioner in the commission of offence, he does not deserve the concession of bail.

I have heard learned counsel for the parties and have carefully gone through the record of the case.

Without commenting anything on the merits of the case lest it may prejudice the outcome of the trial but taking into consideration the fact that allegedly petitioner alongwith co-accused constituted unlawful assembly and in prosecution of common object of said assembly inflicted brick blow on the head of complainant-Assistant Sub Inspector Ashwani Kumar while he was discharging duty as such public servant. Allegedly, petitioner while inflicting brick blow on the head of complainant-injured attempted to commit culpable homicide. Testimonies of complainant-injured and material prosecution witnesses are yet to be recorded. In view of seriousness of offence and alleged attributed role of petitioner as he allegedly gave brick blow on the head of complainant-injured, he does not deserve the concession of bail.

As a sequel to above, instant petition for grant of regular bail moved by the petitioner is dismissed.

(LALIT BATRA)
JUDGE

24.09.2021

jitender

Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No