

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(209)

CRM-M-23117-2021 (O&M)
Date of decision:30.06.2021

Aman

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Manvinder Singh Dalal, Advocate
for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

...

SUVIR SEHGAL, J. (ORAL)

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

Petitioner has filed petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.159 dated 04.10.2019 under Sections 323, 34 and 506 of the Indian Penal Code, 1860 (Sections 148, 149 and 302 of the IPC were added later on), registered at Police Station Sadar, Kaithal.

FIR (Annexure P-1) in question was registered on the complaint of Ajay, brother of deceased Gurmeet, with the allegation that Balbir and his two sons namely Rinku @ Sushil and Aman (present petitioner) and his brother-in-law – Dalbir attacked them as a result of which they sustained injuries and Gurmeet unfortunately expired.

On the basis of the allegations levelled in the FIR (Annexure P-1), counsel for the petitioner has urged that the petitioner is accused of

inflicting a stick blow (danda) on the legs of the complainant, Ajay. He has referred to the Medical Legal Report (Annexure P-3) of the complainant to submit that injuries No. 1 and 2 have been attributed to the petitioner, which were kept under observation and the complainant was advised to get an X-ray done. By referring to the letter (Annexure P-4), he submits that the complainant never reported for the X-ray. It is his arguments that the sole injury on the deceased Gurmeet is attributed to co-accused – Rinku @ Sushil and death of Gurmeet on 20.10.2019, i.e., after a period of 16 days of the alleged occurrence is not a consequence of the said injury. He has placed a reliance on order dated 20.05.2021 (Annexure P-5) passed in CRM-M-18263-2021, whereby co-accused – Dalbir has been granted the concession of bail during the pendency of trial. Counsel submits that the investigation is complete, challan has been presented, charge has been framed but the trial is not progressing and the petitioner who is incarceration since 22.10.2019 deserves to be enlarged on bail.

Petition has been opposed by the State counsel, upon instructions from ASI Ram Niwas and he submits that a wooden stick has been recovered from the petitioner. He argues that the petitioner was a member of unlawful assembly and with a common intention, the accused carried out the attack which resulted in injuries to four persons as well as one death. Upon further instructions, he submits that the challan has been presented on 10.01.2020, charge has been framed on 24.02.2021 and the trial is fixed for 05.07.2021, though none out of the 27 prosecution witnesses have been examined.

I have considered the respective submissions of the parties.

An examination of the order dated 20.05.2021 (Annexure P-5) passed by this Court shows that the case of the petitioner is at par with that of co-accused – Dalbir and there is no allegation against the petitioner of having caused any injury to the deceased.

Keeping in view the above facts and circumstances, period of incarceration of the petitioner of more than one year and ten months, nature of allegations, gravity of offences and the fact that the trial is likely to take time to conclude, no purpose would be served by keeping the petitioner behind bars any further and the petitioner is ordered to be enlarged on bail.

Without commenting anything on the merits of the case, the petition is allowed and the petitioner Aman is ordered to be released on bail on his furnishing 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

30.06.2021

Kamal

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