

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

216

CRM-M No.28325 of 2021
Date of decision:29.07.2021

Raj Kumar @ Kallu

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Namit Khurana, Advocate for the petitioner.

Mr. Naveen Kumar, DAG, Haryana.

SUVIR SEHGAL J. (ORAL)

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

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.03 dated 03.01.2021 registered for offences under Sections 148, 149, 307, 323, 341, 452, 506 and 509 of the Indian Penal Code, 1860 and Section 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, at Police Station Ladwa, District Kurukshetra.

FIR (Annexure P-1) has been registered on the complaint of Mukesh Kumar on the allegation that on 03.01.2021 when his wife was sweeping the lane, Balinder came on the spot and hurled abuses at her. Upon hearing the commotion, the complainant came on the spot and hot words were exchanged between the parties and Balinder threatened to teach them a lesson. Later, Balinder accompanied by Raj Kumar

(petitioner herein), Tilli, Sumit, Joni and 6-7 other boys with muffled faces came and attacked the complainant and his family members and inflicted injuries upon them.

Counsel for the petitioner contends that though the petitioner has been named in the FIR, but no specific injury has been attributed to him. He submits that a sword is alleged to have been recovered from the petitioner with which he is accused of having caused injury to Mukesh and Rikhi Ram, but a perusal of the MLR, Annexure P-5, shows that the injuries inflicted on them are simple in nature and have been opined to have been caused by a blunt weapon. He submits that Section 307 IPC is not attracted. Still further, it is his argument that the allegations pertaining to Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes Prevention of (Atrocities) Act, 1989, are not attributed to the petitioner. He has placed reliance on order dated 22.07.2021 passed by this Court in CRM-M-22031-2021, whereby co-accused Sawan, who is similarly situated, has been ordered to be released on bail. He asserts that the investigation qua the petitioner is complete, challan has been presented and the petitioner, who is in custody since 07.01.2021 is entitled to be released on bail.

Opposing his petition, State counsel, upon instructions from ASI Mainer Pal, has submitted that the injuries have been inflicted by the petitioner with a sword, though they have been declared to be simple but the doctor has recorded that if timely medical treatment had not been given, the injuries could have been dangerous to life. As per his instructions, challan has been presented on 04.03.2021 and trial is fixed

for 16.09.2021 for consideration on framing of charge.

Having considered the submission of the parties, this Court is of the view that the case of the petitioner is at par with that of co-accused Sawan, who has been ordered to be released on bail. The trial is yet to start and is likely to take time to conclude and the petitioner would be entitled to be released on bail.

Without commenting anything on the merits of the case, the petition is allowed and the petitioner, Raj Kumar @ Kallu, is ordered to be released on bail on her furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

It is clarified that any observation made hereinabove shall not be construed as an expression of opinion on the merits of the case.

29.07.2021
sheetal

(SUVIR SEHGAL)
JUDGE

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