

CRM-M-32116 of 2021

Date of Decision: 31.08.2021

Kamal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. K.S. Dhaliwal, Advocate for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

Through Video Conferencing**JASGURPREET SINGH PURI, J.(ORAL)**

The present petition has been filed under Section 439 of Criminal Procedure Code, for grant of regular bail in FIR No.125 dated 08.04.2020 under Sections 148, 149, 323, 324, 120-B, 307 of IPC, 1860, registered at Police Station Thanesar City, District Kurukshetra.

On the statement of one Sanjay Kumar, an FIR was lodged by stating that he is resident of village Kirmach, Kurukshetra and runs a business near Taj Hotel and at his centre one Abhishek son of Naresh Pal and some other boys came there for coaching. However, on 08.04.2021 the aforesaid Abhishek after coaching was going towards the bus stand and from the backside road of the centre at about 1:15 p.m., where he was attacked by 5-6 boys with sticks in their hands and on hearing the noise, he came down and he saw that all the boys whose names he does not know were covered with muffled faces fled away from the spot on motorcycles alongwith their weapons after beating him mercilessly. One boy namely, Ashwani took him from the spot for treatment to Cygnus Hospital, Kurukshetra. The injured had suffered serious injuries on his head, arm and

legs. He fell unconscious while reaching the hospital where Doctor admitted him with grave injuries.

It has been submitted by the learned counsel for the petitioner that the name of the petitioner is not mentioned in the FIR and he has been falsely implicated and in fact, the present case has been implanted upon the petitioner as the petitioner was neither present at the spot nor he was recognized by anybody. He has further submitted that the other co-accused namely, Ankit and Parmod have been granted regular bail by the learned trial Court and the other co-accused namely, Aryan and Chirag alias Chinnu have been granted bail by this Court on 19.07.2021 and therefore, the petitioner may also be considered for grant of regular bail. He has further submitted that the petitioner is in custody since 14.04.2021 and the investigation of the case is complete and the challan has already been presented.

On the other hand, learned State counsel has submitted that an affidavit has been filed by Deputy Superintendent of Police, City Kurukshetra on behalf of the State. While referring the aforesaid affidavit the learned State counsel has submitted that it is a case where 5-6 boys with muffled faces had come near the coaching centre and attacked Abhishek, who was seriously injured in the entire incident and the same incident was also covered in CCTV camera from where it can be seen that the injured Abhishek was hit on his head with Danda. He has further submitted that it is correct that the petitioner is in custody since 14.04.2021 and the other co-accused namely, Ankit, Parmod, Aryan and Chirag have been ordered to be released on regular bail either by learned Sessions Court or by this Court.

He has further submitted that after 6 days the injured Abhishek had suffered supplementary statement in which he had named two persons, who had inflicted danda blows on him. He has submitted that one of the other co-accused namely, Parikshit, who was absconding had filed anticipatory bail before this Court which was however dismissed on 17.05.2021 vide CRM-M-19597-2021 and has submitted that since the petitioner is at parity with the other co-accused namely, Parikshit the petitioner may also be not considered for bail by this Court.

I have heard the learned counsel for the parties.

The custody of the petitioner is not in dispute. It is also not in dispute that the investigation of the case is already complete and recovery of danda and motorcycle was effected from the petitioner. However, it is a case of learned counsel for the parties that no further recovery is to be made. The trial of the case would take long time. So far as the parity with the other co-accused is concerned, the other four co-accused namely Ankit, Parmod, Aryan and Chirag have been granted regular bail either by this Court or by the Court of Sessions and the allegations in the FIR are that 5-6 boys had come and had attacked Abhishek. However, the injured had suffered a supplementary statement after 6 days that one Parikshit and the present petitioner has caused injuries on him, therefore, it cannot be said that the case of the petitioner is at parity with the other aforesaid co-accused. The case of the petitioner has to be considered on the basis of its own merits. So far as the argument raised by the learned State counsel that the petitioner is at parity with another co-accused namely, Parikshit who has been denied anticipatory bail by this Court, also deserves consideration by this Court. The aforesaid Parikshit, who was also named

by the injured was denied anticipatory bail because he was absconding and his anticipatory bail was declined whereas, in the case of the petitioner, it is a case of regular bail where investigation has been completed and recovery has been effected and challan has been presented. Furthermore, no apprehension has been expressed in the affidavit filed by the State that in case, the petitioner is released on bail then he may violate any of the conditions of bail or may tamper with the evidence or may flee from justice. Therefore, it is not the case of the State that in case, the petitioner is released on bail then he may influence any witness or may tamper with the evidence or may flee from justice.

Therefore, considering the totality and circumstances of the case, I deem it fit and proper to grant regular bail to the petitioner. Consequently, the present petition is allowed. Petitioner is admitted to regular bail. He shall be released on regular bail on his furnishing bail bonds/surety to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

August 31, 2021
Manpreet

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No