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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.27299 of 2020 (O&M)

Decided on: 12.01.2021

Yashpal Singh @ Pal

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Naveen Batra, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. Jasraj Singh, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.92 dated 08.09.2015, for offence punishable under Sections 307, 326, 324, 323, 506, 148, 149, 379, 379-B of the Indian Penal Code, 1860 (in short 'IPC'), 25 of the Arms Act, registered at Police Station City Hoshiarpur, District Hoshiarpur.

Counsel for the petitioner has argued that the petitioner was declared a proclaimed offender on 23.03.2020 and was arrested on 18.06.2020 and since then, he is in custody.

Counsel for the petitioner has further submitted that as per the allegations in the FIR, which is a version and cross-version case, the petitioner and the other accused persons have caused injuries to Sanjiv Kumar Chauhan @ Minta. The petitioner was armed with ganda and

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has caused an injury on the neck of the victim, which was later on declared to be a simple injury. It is also submitted that as per the allegations in the FIR, 10 injuries were caused to the victim and the fire-arm injury is attributed to Neeraj Sharma @ Pandit on the left arm of the victim. It is further argued that both the sides have suffered injuries in the version and cross-version case.

Counsel for the petitioner has relied upon the order dated 17.08.2020 passed in CRM-M No.9032 of 2020 vide which the co-accused Neeraj Sharma @ Pandit, the person who has been attributed the gun-shot injury, was released on regular bail, by passing the following order:-

“Learned counsel for the petitioner submits that the petitioner has been in custody since 27.09.2019. The trial has not yet commenced as charges have not been framed. This is a case of version and cross-version and in the cross-version the complainant of the present case has been granted regular bail. Thus, the petitioner also deserves a similar concession.

Learned State counsel concedes that charges have not yet been framed.

Learned counsel for the complainant objects to grant of bail by submitting that the petitioner evaded the law for a period of 1 ½ years. He was declared Proclaimed Offender on 13.07.2018 and was arrested only on 27.09.2019. Apart from that the petitioner caused fire arm injury upon Naresh Kumar belonging to the complainant party. The complainant received a total of ten injuries caused with sharp edged weapon and, thus, the petitioner does not deserve the concession of regular bail.

Learned counsel for the petitioner, in return, submits that out of ten injuries allegedly inflicted upon the

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complainant nine are simple in nature. The fire arm injury allegedly attributed to the petitioner does not infact exist. Naresh Kumar has received a gun shot injury on his left arm and the same is not attributed to the petitioner. The complainant – Sanjeev Kumar is a known Gangster and there are ten other criminal cases pending against him. The present case has been engineered by him which is evident from the fact that the incident took place on 05.09.2015 whereas the FIR was registered on 08.09.2015.

It is not in dispute that the petitioner has been in custody since 27.09.2019 and that charges have not yet been framed. It is also not in dispute that there is no other criminal case pending against the petitioner whereas the complainant has large number of criminal cases pending against him and he is on bail in the cross-version. In view the period of incarceration already undergone by the petitioner as well as the fact that the trial is not likely to be concluded at an early date, I am of the opinion that he deserves to be granted regular bail. The arguments on merits are not being dealt with as the same may prejudice the trial of the case.”

Counsel for the petitioner, lastly, argued that the petitioner has volunteered to pay a sum of Rs.25,000/- to the victim towards his medical expenses, without prejudice to his right of defence.

Counsel for the State assisted by counsel for the complainant has opposed the prayer for bail on the ground that the anticipatory bail of the petitioner was dismissed in the year 2016 itself and thereafter, he did not surrender and was declared a proclaimed offender and later on, he was arrested after 04 years of the registration of the FIR. It is, however, not disputed that the injury attributed to the petitioner was declared to be a simple injury.

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Without commenting anything on merits of the case, considering the fact that the main accused i.e. Neeraj Sharma @ Pandit has already been granted the concession of regular bail; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation and also in view of the fact that the petitioner is ready to pay a sum of Rs.25,000/- to the victim, without prejudice to his right of defence, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

The petitioner will hand over the demand draft of Rs.25,000/- (without prejudice to his right of defence) favouring the victim before the Illaq Magistrate/Duty Magistrate/trial Court within a period of 30 days from the date of his release and the same will be handed over to the victim.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

12.01.2021

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Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No