

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

108)

CRM-M-39131 of 2021

Date of Decision: 10.11.2021

Raj Kumar Kataria

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Amit Choudhary, Advocate, for the petitioner.
Mr. Neeraj Poswal, AAG, Haryana

Amol Rattan Singh, J. (Oral)

Case heard by way of video conferencing.

By this petition, filed under the provisions of 439(2) of the Cr.P.C., cancellation of the bail granted to Manjeet son of Sh. Rajender (respondent no.2 herein) is sought, in case FIR no.384 dated 23.06.2021, [registered at Police Station City Palwal, for the commission of offences punishable under Sections 323, 332, 452, 506 and 34 of the IPC, with Section 307 thereof added subsequently in the FIR, by the learned Addl. Sessions Judge, Palwal, vide order dated 27.08.2021 (copy Annexure P-2)].

On 22.09.2021, the following order had been passed by this court:-

“Case heard by way of video conferencing.

Learned counsel for the petitioner would address arguments in terms of any judgment that he wishes to rely upon, to show that the reasoning given by the learned Addl. Sessions Judge, Palwal, in his order dated 27.08.2021, (to the effect that respondent no.2 (accused) having been in custody for more than 2 months at that stage, with the report under Section

173 of the Cr.P.C. already submitted to the competent court and the trial therefore likely to take long, with nothing to be recovered from him), was an order erroneously passed.

Adjourned to 27.10.2021.”

Today, upon query to learned counsel for the petitioner as to how, in the circumstances of the case as depicted in the FIR, where the actual injuries attributed are simple injuries, (though an allegation of an attempt to murder has also been made), respondent no.2 can be kept behind bars during the entire period of the trial, he points to paragraph 5 of the order of the learned Addl. Sessions Judge, Palwal, dated 27.08.2021, wherein it has been observed that “there is no injury to the complainant”.

He submits that as a matter of fact even as per the medical record, the complainant received three injuries and consequently the basis of the order itself being wholly erroneous, the order deserves to be set aside.

Without making any comment on whether or not the complainant received any injury, which naturally would be a matter of evidence led before the trial court, as regards setting aside the order admitting respondent no.2 to bail on the ground that the report under Section 173 of the Cr.P.C. had been submitted and the trial was likely to take long, I would find no error as regards that part of the order, which is actually the operative part.

Consequently, again without making any comment on the merits of the case, this petition is dismissed. However, naturally, nothing

observed in any order passed either by this court, or by the learned Addl. Sessions Judge in any petition filed under Section 438/439 of the Cr.P.C., would be taken into consideration by the trial court, with that court to come to its own conclusion as regards the charges framed against the accused, wholly on the basis of the evidence led before that court.

10.11.2021
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking: Yes
Whether reportable: No