

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-36992-2020 (O&M)

DATE OF DECISION: APRIL 20, 2021

SUNNY

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. RAKESH NEHRA, ADVOCATE FOR THE PETITIONER.
MR. SUKHDEEP PARMAR, DAG, HARYANA.

MANOJ BAJAJ, J.(ORAL)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.119 dated 13.4.2020, Section 186, 188, 269, 270, 307, 332, 353, 427 IPC and Section 20 NDPS Act, Police Station I.M.T. Rohtak, District Rohtak. The petitioner is in custody since his arrest on 13.4.2020.

The allegations contained in the FIR as noticed by the Addl. Sessions Judge, Rohtak, in the order dated 7.10.2020, are as under:-

“Briefly the prosecution case is that the present case was registered on the basis of the complaint made by ASI Rajesh on the allegations that on April 13, 2020, he alongwith other police officials (Man Pal Ramawat) Addl. Sessions Judge, Rohtak. 7.10.2020 was present on patrolling duty at the barricade near Kharawar Chowki and was checking the traffic. In the meantime, a silver coloured Skoda HR-13N-3480 was seen approaching from Delhi side. The driver did not stop the vehicle despite being signaled. He tried to hit the police officials who saved themselves by jumping aside. The car collided with the barricade. The driver of the car tried to reverse

and drive off, but constable Harpal attempted to stop him. He was dragged with the car for some distance, while he was half inside the rear window. The police officials followed the offending car and managed to stop him near the Foji Punjab Dhaba. It broke the wall of the said Dhaba and the adjoining Shri Bala Ji Dhaba, Maa Bhimeshwari Dhaba and went into the ditches nearby. Two youth were apprehended from the car. Constable Harpal had sustained injuries. The person driving the car identified himself as Sunny son of Rambir, while the other person was Dheeraj son of Satish. It was suspected to be carrying contraband. Requisite notice under section 50 of NDPS Act was served to them whereupon on the option of being searched in presence of DSP Narender Kadian, two plastic bags containing 21 Kgs. and 20 Kgs. of Ganja patti were recovered from them. The articles were seized and the instant case was registered.”

Learned counsel for the petitioner has argued that the petitioner is innocent and has been falsely implicated in this case. According to him, the police has allegedly recovered 41 kgs. of Ganja Patti from the petitioner and Dheeraj S/o Satish, who were arrested on spot. He submits that another accused Lalita w/o Vinod Kumar was also indicted as an accused, but she has been released on regular bail vide order dated 5.8.2020, passed by this Court. Learned counsel has pointed out that the offence punishable under Section 307 IPC has been wrongly incorporated in the FIR, as the injuries suffered by Constable Harpal Singh were simple in nature. He submits that in a similar case where the Ganja Patti was recovered from the accused, the concession of bail has been extended by this Court through order passed in

CRM-M-9278-2019. He prays for bail.

Learned counsel for the State assisted by ASI Rajiv Kumar has vehemently opposed the prayer on the ground that the petitioner was driving the vehicle and when the police signaled him to stop the vehicle, he hit the police barricade in an attempt to escape. It is pointed out that one of the police officials, namely, Constable Harpal Singh made a brave effort to stop the vehicle and clung to it, but the petitioner kept on driving the vehicle which resulted into injuries to the said official. He submits that the FSL report has already been received and as per it, the recovered contraband is Ganja and falls within the ambit of commercial quantity. He, on instructions, further submits that the challan in this case stands filed on 26.4.2020.

After hearing the learned counsel for the parties and considering the above background, this Court is of the opinion that specific allegations have been made against the petitioner who was arrested on the spot after lot of effort by the police and in that process, one of the police officials also suffered injuries. The nature of injury alone is not sufficient to determine the applicability of Section 307 IPC, as the act itself is sufficient to constitute the offence. The decision relied upon by learned counsel for the petitioner is not helpful to the present facts and circumstances of the case, therefore, considering the seriousness of the offence, this Court is not inclined to extend the concession of regular bail to the petitioner, at this stage.

Petition is dismissed.

April 20, 2021

Gulati

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No

(MANOJ BAJAJ)
JUDGE