

109 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.42062 of 2021
Date of Decision : 11.10.2021

Sandeep alias Sonu ...Petitioner

Versus

State of HaryanaRespondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. K.S. Khehar, Advocate for the petitioner.
Mr. Gurbir Dhillon, AAG, Haryana.

B.S. Walia, J. (VC)

[1] Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

[2] Prayer in the petition under Section 482 Cr.P.C. is for quashing of order (Annexure P-4) dated 27.04.2009 passed by the learned Additional Sessions Judge, Gurgaon, declaring the petitioner proclaimed offender, in case FIR No.241 dated 17.06.2008 registered under Sections 398/401 IPC at Police Station Sadar, Gurgaon.

[3] Learned counsel contends that the petitioner was granted regular bail in the aforementioned case by the learned trial Court vide order (Annexure P-2) dated 25.10.2008 but could not appear in the proceedings before the learned trial Court on 27.04.2009, leading to passing of order (Annexure P-4) dated 27.04.2009, declaring the petitioner proclaimed offender.

[4] Learned counsel contends that FIR (Annexure P-5) bearing No.875 dated 17.10.2006 under Sections 148, 149, 342, 302, 201, 120-B

at Police Station Sadar Gurgaon, District Gurgaon against a well known gangster-Kaushal and the said gangster has 33 criminal cases registered against him, majority of which are under Sections 302 and 307 IPC. Details of the same are as under:-

CASE DETAILS (KAUSHAL-CT-10401/2019)			
Sr. No.	FIR Details	Section	Status
1.	FIR No.3299/2019 Dt. 09.12.2019 CAMP PALWAL (PALWAL)	387 IPC, 506 IPC, 66 IT ACT	NEXT HEARING ON 09.12.2019 (RAJESH KUMAR YADAV CJM-PALWAL)
2.	FIR No.318/2002 Dt. N/A SADAR GURGAON (GURUGRAM)	323 IPC	ACQUITTED ON 21/08/2008 NA(CJM-NA)
3.	FIR No.541/2018 DT. N/A MODEL TOWN (REWARI)	25 A ACT	NEXT HEARING ON 17.12.2019 (SH. JITENDER SINGH, JMIC-REWARI)
4.	FIR No.394/2009 Dt. N/A SADAR, GURGAON (GURUGRAM)	307 IPC, 302 IPC 120-B, 34 IPC	ACQUITTTED ON 28.08.2010 (ASJ GURGAON (ASJ-GURGAON)
5.	FIR No.875/2006 Dt. N/A SADAR, GURGAON (GURUGRAM)	148 IPC, 149 IPC, 302 IPC, 201 IPC	ACQUITTED ON 19.10.2019 (ASJ GURGAON)
6.	FIR No.174/2009 DT. N/A – SADAR GURGAON (GURUGRAM)	302 IPC, 449 IPC, 120-B IPC	ACQUITTTED ON 24.02.2011 (ASJ GURGAON)
7.	FIR No.598/2006 Dt. N/A SADAR, GURGAON (GURUGRAM)	302 IPC, 307 IPC, 34 IPC	ACQUITTED ON 05.11.2009 (ASJ GURGAON) ASJ-GURGAON)
8.	FIR No.165/2008 DT N/A – SADAR GURGAON (GURUGRAM)	302 IPC, 34 IPC, 120-B IPC	ACQUITTED ON 06.02.2009 ASJ GURGAON (ASJ-GURGAON)
9.	FIR No.40/2006 DT N/A – SOHNA (GURUGRAM)	323 IPC	ACQUITTED ON 16.12.2010 JMIC-SOHNA (JMIC SOHANA)
10.	FIR No.236/2011 DT 12/05/2011 KOTWALI (FARIDABAD)	174-A IPC	SENTENCE ALREADY UNDERGONE ON 05.10.2011 (CJM FARIDABAD) (JMIC-FARIDABAD)
11.	FIR No.124/2006 DT N/A KOTWALI FARIDABAD	25/54/59-A ACT	SENCTENCE ALREADY UNDERGONE ON 09.09.2011 (MOHIT AGGARWAL JMIC, FARIDABAD)
12.	FIR No.362/2005 DT	380 IPC	SENTENCE ALREADY

	N/A NUJ (Mewat)		UNDERGONE ON 08.06.2011 (SH. MAHESH KUMAR, JMIC, NUH.
13.	FIR No.797/2013 Dt. N/A SADAR GURGAON (GURUGRAM).	448 IPC, 506 IPC, 148 IPC, 149 IPC.	ON BAIL ON 23.12.2013 (MS. HARJOT KAUR) JMIC, GURGAON
14.	FIR No.246/2014 Dt. 22.08.2014 BHONDS (GURUGRAM)	148 IPC, 149 IPC, 323 IPC, 506 IPC.	ON BAIL ON 17.10.2014 (JMIC SOHNA)
15.	FIR No.277/2019 Dt. 08.08.2019 NEW COLONY (GURUGRAM)	120-B IPC, 287 IPC, 506 IPC	NEXT HEARING ON 19.11.2019 (MS SUMITRA KADIAN (JMIC-GURGAON)
16.	FIR No.90/2019 Dt. 23.01.2019 SHIVAJI NAGAR (GURUGRAM)	120-B IPC, 25/54/59-A ACT 367 IPC, 506 IPC	NEXT HEARING ON 05.12.2019 (SH. PARDEEP CHAUDHARY, CJM, GURGAON).
17.	FIR No.120/2018 DT. 30.03.2018 SECTOR 14, GURGAON	120-B IPC, 307 IPC, 34 IPC, 367 IPC, 506 IPC	NEXT HEARING ON 05.12.2019 (SH. ASHWANI KUMAR MEHTA, ASJ, GURGAON)
18.	FIR No.487/2019 Dt. 04.10.2019 SECTOR 40, GURUGRAM	174-A IPC	NEXT HEARING ON 21.12.2019 (MS. SUYASHA JAWA, JMIC, GURGAON
19.	FIR No.548/2018 Dt. N/A – CIVIL LINES, GURGAON	120-B IPC, 384 IPC, 506 IPC	NEXT HEARING ON 02.11.2019 (MS. SHATAKSHI, JMIC, GURGAON)
20.	FIR No.120/2019 Dt. 12.02.2019 SADAR GURGAON, GURUGRAM	174-A IPC	NEXT HEARING ON 20.12.2019 (MS. SUMITRA KADIAN, JMIC, GURGAON.
21.	FIR No.473/2018 Dt. 16.10.2018 SECTOR 50, GURUGRAM	120-B IPC, 201 IPC, 216 IPC, 25/54/59-A ACT, 307 IPC.	NEXT HEARING ON 12.12.2019 (MS. APARNA CHOUDHARY, JMIC, GURGAON.
22.	FIR No.265/2019 Dt. 14.06.2019, BILASPUR, GURUGRAM	120-B IPC, 25/54/59 A ACT 307 IPC 506 IPC	NEXT HEARING ON 20.12.2019 (PRATEET SINGH DHONCHAT, JMIC PTD)
23.	FIR No.1082/2016 Dt. 18.10.2016 CITY GURGAON, GURUGRAM	120-B IPC, 148 IPC, 149 IPC, 25/54/59-A ACT, 302 IPC, 307 IPC	NEXT HEARING ON 05.12.2019 (SH. MADHUR BAJAJ, JMIC, GURGAON
24.	FIR No.1119/2016 Dt. 28.10.2016 CITY GURGAON, GURUGRAM	120-B IPC, 25/54/59-A ACT, 387 IPC 506 IPC	NEXT HEARING ON 05.12.2019 (SH. MADHUR BAJAJ, JMIC, GURGAON
25.	FIR No.312/2016 Dt. 30.11.2016 FARRUKH NAGAR, GURUGRAM	120-B IPC, 148 IPC, 149 IPC 25/54/59-A ACT, 302	NEXT HEARING ON 10.12.2019 (SH. PRATEET SINGH DHONCHAK, JMIC, PATAUDI.

		IPC, 307 IPC	
26.	FIR No.302 DT 23.09.2019 FARRUKH NAGAR, GURUGRAM	174-A IPC	NEXT HEARING ON 14.12.2019 (MS GARIMA YADAV, JMIC PATAUDI.
27.	FIR No.62/2019 DT 23.02.2019 BADSHAHPUR, GURUGRAM	120-B IPC, 201 IPC, 25/54/59-A ACT, 302 IPC, 34 IPC, 386 IPC	NEXT HEARING ON 01.10.2019 (MS. SUMITRA KADIAN, JMIC, GURGAON
28.	FIR NO.497/2015 DT 05.06.2015 SADAR GURGAON, GURUGRAM	NIL NOT AVAILABLE	NEXT HEARING ON 05.12.2019 (SH. AMIT SEHRAWAT (ACJM, GURGAON)
29.	FIR No.326/2017 Dt. 12.03.2017 SADAR GURGAON, GURUGRAM	120-b IPC, 216 IPC, 25/54/59-A ACT, 302 IPC 307 IPC, 325 IPC, 34 IPC, 419 IPC, 420 IPC, 472 IPC	NEXT HEARING ON 19.12.2019 (SH. AMIT SEHRAWAT, ACJM, GURUGRAM
30.	FIR No.401/2019 DT 19.07.2019 CITY BALLABGARH, FARIDABAD	387 IPC	NEXT HEARING ON 17.12.2019 (SH. RAKESH KADIAN, JMIC, FARIDABAD.
31.	FIR No.417/2019 Dt. 27.06.2019 SECTOR 7, FARIDABAD	120-B IPC, 201 IPC, 212 IPC, 25/54/59-A ACT, 302 IPC, 34 IPC	NEXT HEARING ON 17.12.2019 (DR. BIRENDER PARSHAD, ASJ, FARIDABAD.
32.	FIR No.412/2018 DT. N/A MODEL TOWN, REWARI	307 IPC, 506 IPC, 34 IPC, 25/54/59-A ACT	NEXT HEARING ON 17.12.2019 (SH. JITENDER SINGH, JMIC, REWARI
33.	FIR No.1108/2006 Dt. 18.12.2006 SADAR GURGAON, GURUGRAM	148 IPC, 149 IPC, 307 IPC, 302 IPC, 353 IPC 25-A ACT	TRANSFERRED ON 12.12.2019 (SH. R.S. VIRK, DJ, GURGAON).

[5] Learned counsel contends that although said gangster stands convicted in FIR No.1108 dated 18.12.2006 vide judgment of conviction dated 26.05.2011 and is in custody yet he was committing crimes beyond the walls of the jails even after his conviction, as is evident from FIR's at Serial Nos.13 to 32 in the list of FIRs registered against said gangster-Kaushal, as

[6] Learned counsel contends that said gangster-Kaushal's mother had registered FIR (Annexure P-3) bearing No.20 dated 18.01.2008 under Sections 307/34 IPC and Section 25 Arms Act at Police Station Sadar, Gurgaon against the petitioner and had also threatened him with elimination through her gangster son-Kaushal and it is on account of said fear that the petitioner did not appear before the Court.

[7] Learned counsel contends that co-accused-Rajesh in FIR No.241 dated 17.06.2008 under Sections 398 and 401 IPC registered at Police Station Sadar, Gurugram against whom there were identical allegations as are against the petitioner stands acquitted vide judgment (Annexure P-6) dated 02.03.2010.

[8] Learned counsel contends that the petitioner does not press the instant petition and may be permitted to withdraw the same with liberty to surrender before the learned trial Court and file a petition for regular bail with directions being issued to the learned trial Court to decide the same in a time bound manner.

[9] The same is not opposed to by learned State Counsel.

[10] Accordingly, in the light of statement of learned counsel for the parties, the instant petition is *dismissed as withdrawn* with the liberty as prayed for. In the eventuality of the petitioner surrendering before the learned trial Court and moving a petition for regular bail, the learned trial Court is directed to consider and decide the same in accordance with law, by taking into account all aspects of the matter, as expeditiously as possible.

(B.S. Walia)
Judge

11.10.2021

'Rajneesh'