

CRM-M-38663-2020

Date of Decision: 01.10.2021

Jaipal

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Parveen Chauhan, Advocate,
for the petitioner.

Mr. Munish Sharma, A.A.G., Haryana.

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

On 19.01.2021 the following order had been passed by this
court:-

“Case heard by video conferencing.

This petition has been filed under the provisions of Section 439 of the Cr.P.C. seeking 'regular bail' for the petitioner in case FIR no. 78 dated 19.02.2011, registered at Police Station Sadar, District Karnal, for the alleged commission of offences punishable under Sections 148, 149, 307, 324 and 506 of the IPC.

Learned counsel for the petitioner submits that the petitioner having been in custody for almost 01 year and 04 months now, with the trial still not having commenced, he deserves to be admitted to bail, with there being no other criminal case pending against him.

Learned State counsel on the other hand submits that the petitioner having been declared to be a

Proclaimed Offender and there being an FIR registered against him under the provisions of Section 174-A of the IPC also, he does not deserve to be admitted to bail.

He further submits that the other co-accused of the petitioner were in fact convicted for the offences that they were charged with, including one punishable under Section 307 of the IPC, but with the petitioner having absconded he could not be tried at that stage and therefore he is now facing trial.

Learned counsel for the petitioner counters by submitting that in fact the petitioners' father name was given wrongly, which is why he was never actually summoned.

Though of course with all of his co-accused facing trial, it is very difficult to believe that the petitioner did not know of the trial going on (or the fact that he was an accused), yet, simply looking at the period of custody and the stage of the trial and the fact that the attribution against the petitioner is an injury to the hand, though of course he is alleged to have been armed with a sword along with others who had inflicted injuries on more vital parts of the body of the complainant, he is ordered to be admitted to interim bail upon his furnishing adequate bail bonds and surety bonds to the satisfaction of the trial court, till the next date of hearing before this court.

Adjourned to 18.05.2021.

In the meanwhile, a gazetted officer is directed to file a reply to the petition.”

Thereafter, the turn of the case having come up only on 23.09.2021, learned counsel for the petitioner had contended that he had not received the reply filed on behalf of the respondent-State, wherein it is stated

that in fact the petitioner was declared to be a proclaimed offender with an FIR also registered against him alleging therein the commission of an offence punishable under the provisions of Section 174-A of the IPC.

As regards the merits of the case, though it is seen in the aforesaid order that this court had, naturally, noticed the contention of learned counsel for the petitioner to the effect that he had only been attributed an injury to the hand of the complainant, this court, even while observing in the aforesaid order that the petitioner may not be entitled to the grant of concession of bail, however, simply looking at his period of custody, had still admitted him to interim bail.

As per paragraph 7 of the reply filed on behalf of the respondent-State, in fact thereafter also the petitioner did not appear before the learned trial court and consequently, the bail bonds and surety bonds furnished by him, pursuant to the aforesaid interim order, already stand forfeited to the State, vide an order of the learned Additional Sessions Judge, Karnal, dated 25.08.2021, with warrants of arrest issued to secure his presence on 22.10.2021.

That being so, this petition stands dismissed.

October 01, 2021
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.