

In the High Court of Punjab and Haryana at Chandigarh

**CRM-M No. 44789 of 2021
Date of Decision: 01.11.2021**

Sanesh alias Kala

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Kshitij Sharma, Advocate for
Mr. Naveen S. Bhardwaj, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

FIR bearing No. 43 of 13.2.2020, constituting therein offences embodied under Sections 323, 506 and 195-A IPC (Sections 307, 201 IPC were added later on and Section 195-A IPC deleted in the final report), became registered against the petitioner-bail applicant at Police Station Bilaspur, District Gurugram.

After completion of investigation, by the investigating officer, into the afore referred offences, the learned State counsel submits, that the report under Section 173 Cr.P.C., has been filed before the learned Magistrate concerned.

The petitioner-bail applicant is in judicial incarceration since 06.8.2021. Though, the incriminatory weapon of offence alleged to be used, at the relevant time, by the petitioner-bail applicant, though, remained

un-recovered at his instance, by the investigating officer concerned. However, want of recovery thereof, as submitted by the learned Assistant Advocate General, became a sequel to the petitioner-bail applicant, dispensing with it or throwing it into a fast flowing water body. Therefore, the offence under Section 201 IPC was reported, to be made against the petitioner-bail applicant, in the report made, under Section 173 Cr.P.C., by the investigating officer concerned.

Be that as it may, even the injuries suffered on the person of the victim-injured, are simple in nature, and, also when he is discharged from the hospital concerned. Therefore, this Court does not deem it fit, and appropriate, to prolong the judicial incarceration of the bail applicant-accused, as there is no evidence out on record, in display, that upon bail, being granted to him, there is any likelihood of his, fleeing from justice or tampering with prosecution evidence.

However, even though some other FIR is lodged against the petitioner-bail applicant, yet the afore fact cannot constrain this Court to disallow the extant petition, rather, the imposition of stringent condition as hereinafter mentioned, would hence suffice.

Consequently, the instant petition is allowed, and, the petitioner-bail applicant is ordered to be released from judicial custody. However, the granting of bail is subject to the bail applicant-petitioner's furnishing personal and surety bonds in the sum of ₹50,000/- each, before the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, and, also subject to his not tampering with prosecution evidence, and, his not influencing prosecution witnesses, and, besides also his appearing before the trial Court concerned, as and when directed to make his personal

appearance. Moreover, the petitioner-bail applicant shall also make an undertaking before the learned Magistrate concerned, that he would not again indulge in criminal activities, and, in case, he re-indulges in criminal activities, he shall not be entitled to, in respect thereof, make any claim for bail, whether regular or anticipatory.

(SURESHWAR THAKUR)
JUDGE

November 01, 2021
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : Yes