

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

224

CRM-M-43250-2020

Date of decision: 10.02.2021

SAGAR

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Randeep S. Dhull, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.227 dated 20.05.2019 registered under Sections 323/324/506/34 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station, Civil Lines, District Kaithal to which Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 307 of the IPC were added later on.

The above said FIR was registered on written complaint made by SI Rekha Rani to SHO Police Station, Civil Line, Kaithal. In the complaint she alleged that on 20.05.2019 she had gone to the Court of Sh. Hukam Singh, learned Additional Sessions Judge, Kaithal for recording of her statement as prosecution witness. At about 11.25 A.M. when her statement was being recorded in the Court on hearing of noise “*mar-diya mar-diya*” she went out and saw injured (Hukam Chand) bleeding badly due to injuries caused on his face and ear with some sharp edge weapons. Accused Pardeep, Sagar Dutt and Sombir were causing injuries with “*sua*” (pokers) to him with intention to kill him.

She also picked up blade like knife lying on the ground, informed the police, sent the injured to hospital and handed over the accused and weapons recovered from the spot to the police.

The petitioner being in custody since 20.05.2019 has filed the present first petition for grant of regular bail.

The petition has been opposed by the respondent-State in terms of reply filed by way of affidavit of Dalip Singh, Deputy Superintendent of Police, AEC in the Registry which is taken on record.

I have heard learned counsel for the petitioner and learned State counsel and gone through the record.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. There are no specific allegations against the petitioner with regard to his role, manner of causing injuries and involvement in committing the offences. There is no evidence at all against him. No offence has been committed by him. Similarly placed co-accused-Sombir has been granted bail by the co-ordinate Bench of this Court vide order dated 04.11.2020. The petitioner was arrested on 20.05.2019 and is in custody since then. The trial is likely to take long time as due to restrictions imposed to prevent spread of infection of Covid-19, the criminal courts are not conducting trials. Therefore, the petitioner may be ordered to be released on regular bail.

On the other hand, learned State counsel has submitted that in the course of trial injured Hukam Chand has been examined as PW-2 who has in his testimony identified the applicant-accused as the person who gave blows with “*sua*” (poker) on his chest, abdomen as

well as waist. In view of the nature of accusation, gravity of offences and the quantum of sentence which conviction may entail the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

In the present case the petitioner, along with his co-accused-Pardeep and Sombir is alleged to have attacked and caused injuries to Hukam Chand in the Court complex. The petitioner and his co-accused were apprehended on the spot and the weapons of offence were also recovered from them. Injured Hukam Chand has been examined in the Court as PW-2, who in his testimony, identified the applicant-accused Sagar Dutt as the person who gave blows with "*sua*" (poker) on his chest, abdomen as well as waist attracting Section 307 of the IPC. No doubt injuries were declared by the doctor to be simple and not dangerous to life on which Section 307 of the IPC was deleted by the Police but charge under Section 307 of the IPC has been framed by the Court in view of material on record prima facie showing causing of injuries with intention to kill. The case of the petitioner stands on different footing from that of his co-accused Sombir as there was no specific attribution of injuries attracting Section 307 of the IPC to co-accused Sombir and the petitioner is not entitled to grant of regular bail on the ground of parity with his co-accused Sombir.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner, the role attributed to the petitioner by injured-Hukam Chand in his testimony as referred to above which makes out the prima facie case as to commission of offence punishable under Section 307 of the IPC against

him and also the fact the trial can be expedited, I am of the considered view that the petitioner does not deserve grant of regular bail.

In view of the above the petition for grant of regular bail to the petitioner is dismissed.

In view of the facts and circumstances of the case and observations made by Hon'ble Supreme Court in *Doongar Singh Vs. State of Rajasthan 2018 (1) RCR Criminal 256*, *State of U.P. Vs. Shambhu Nath Singh and others, 2001 (2) R.C.R. (Criminal) 390*, *Hussain and another Vs. Union of India 2017(2) RCR Criminal 312* and *Thana Singh Vs. Central Bureau of Narcotics 2013(1) R.C.R(Criminal) 861*, the trial Court is directed to expedite trial and conclude prosecution evidence preferably within a period of three months from the date of receipt of copy of this order by conducting trial on day to day basis as far as possible and by allocating block of dates for the trial as directed by Hon'ble Supreme Court and by issuing coercive process for securing presence of the witnesses, if so required.

In case of non-appearance of any of the other prosecution witnesses, the trial Court shall take appropriate action against the concerned prosecution witness absenting without any lawful excuse by filing complaint under Section 174 of the Indian Penal Code, 1860 or taking proceedings under Section 350 of the Cr.P.C.

A copy of this order be sent to the trial Court concerned for requisite compliance.

10.02.2021
vishal

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No