

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

**CRM-M-52441-2021
Date of decision: 21.12.2021**

Sunil

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Bikram Chaudhary, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 90 dated 14.04.2020, registered under Sections 148, 149 (deleted), 323, 325, 307, 506, 201 of the IPC read with Section 34 of the IPC at Police Station Kalayat, District Kaithal.

Learned counsel for the petitioner relies upon a joint order dated 23.11.2021 passed in CRM-M-28846-2020 and other connected petitions, vide which co-accused Satish, Ramesh, Parladh @ Kala and Vijender Singh have already been granted the concession of regular bail by this Court. The operative part of the order reads as under:

“Learned counsel for the petitioners jointly submit that the FIR was registered on a complaint given by Sunil Kumar son of Raj Kumar, wherein it is stated that he is an agriculturist by profession and his uncle’s son Vijender son of Girdawar (petitioner in CRM-M-41875-2020) had an issue regarding some property with

Shrikant son of Siya Ram. On 14.04.2020, when the complainant was going to flourmill of Alberal, he saw that his uncle's son Vijender and Parladh son of Krishan (petitioner in CRM-M-42069-2020) were sitting near the stadium. In the meantime, Shrikant, Satish and Sunil sons of Ramesh, armed with gandas, Siya Ram and Ramesh, carrying sticks, came there. Shrikant gave a gandas blow on the left side of the head of Vijender with an intention to kill him. Petitioner Satish also gave a gandas blow on the right side of the head of Parladh with an intention to kill him. In the meantime, Vijender and Parhlad fell down. Thereafter, Vijender fired with his illegal weapon upon Satish and then all the accused ran away after threatening them. The victims were taken to Civil Hospital for treatment.

Learned counsel, appearing for petitioner Satish, submits that he is in judicial custody for the last more than 01 year and 06 months and he is not involved in any other case.

Learned counsel, appearing for petitioner Ramesh, submits that he is in judicial custody for the last more than 01 year and 04 months and he is also not involved in any other case.

It is further submitted that the investigation is complete and petitioners are no more required for any further investigation, therefore, they may be enlarged on regular bail as the conclusion of trial is likely to take a long time.

Reply, by way of the affidavit of DSP, Kalayat, is on record, wherein, after giving details of the investigation, it is stated that as per the MLRs of the victims, Section 307 IPC was added. It is further stated that even petitioner Satish and Shrikant suffered injuries and bone of contention was that one acre of land was

purchased from Kuldeep Singh and petitioner Vijender Singh was having a grudge against the complainant and on that pretext, they had a fight, in which both the sides suffered injuries. It is also stated that respective weapons of the offence have been recovered from the accused persons after their arrest and challan was presented on 07.08.2020. It is also stated that a cross version was also registered against the complainant side.

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The present cross version was registered in the aforesaid FIR on the statement of Shrikant, wherein it is stated that he has purchased one acre of land from Kuldeep Singh and due to this reason, Vijender Singh was nurturing a grudge against him and threatened to kill him. It is further stated that on the date of incident, a quarrel took place between them and the villagers pacified the matter, however, again the accused persons, namely Vijender, Parladh @ Kaka, Sunil, Randeep, Jaswant and elder son of Naib came in an i20 car and attacked on Shrikant and Satish. Vijender was having a pistol in his hand and when they had a fight, the pistol fell down on the ground, which was picked up by Parladh @ Kala and he fired at Satish and both of them fell down. Later on, they were taken to a hospital for treatment.

It is submitted on behalf of the petitioners that both the petitioners have also suffered multiple injuries as reflected in their respective MLRs.

With regard to petitioner Parladh @ Kaka, it is submitted that he is in judicial custody for the last more than 01 year and 05 months and though he is involved in two more cases, however, he is on bail in those cases.

It is further submitted that petitioner Vijender Singh is in judicial custody for the last more than 01 year

and 06 months and he is involved in three more cases, however, he is on bail in those cases.

Learned counsel further submits that even in cross version, challan has been submitted and the petitioners are no more required for any further investigation.

Observations and Order

As noticed above, it has come in the affidavit of the DSP, Kalayat that challan has been presented in both, the version and cross version, cases and the matter is now pending trial before the Additional Sessions Judge.

It is worth noticing here that considering the long custody of the petitioners, a report was sought from the trial Court about the delay in conclusion of trial.

The trial Court, vide its report dated 07.05.2021, has explained that on account of COVID-19 situation, there was a nationwide lockdown and for that reason, the trial was delayed. It is also explained that till date, no prosecution witness has been examined either in the main case or in the cross version. The trial Court has further explained that some times, on the request of learned defence counsel, the case was adjourned and on some dates, even learned defence counsel was quarantined. It is further stated that the case is now fixed for prosecution evidence.

Learned State counsel, on instructions from the Investigating Officer and on the basis of the aforesaid affidavit, has not disputed that till date no prosecution witness has been examined.

After hearing learned counsel for the parties, without making any expression on the merits of the cases, considering the long custody of the petitioners as well as the facts that challan stands presented one year ago and till date no prosecution witness has been examined and also in view of the fact that it is a case of

version and cross version, the present petitions are allowed and petitioners Satish, Ramesh, Parladh @ Kala and Vijender Singh are ordered to be released on regular bail, subject to their furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.”

For the sake of brevity, the facts are not reproduced here again.

Learned counsel for the petitioner submits that though the petitioner is also an injured person, however, he is attributed a gandasi blow. It is further submitted that the petitioner is not involved in any other case.

Learned State counbsel has filed the custody certificate and has not disputed the factual position. As per custody certificate, the petitioner is in judicial custody for the last 01 year, 05 months and 25 days and he is not involved in any other case.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid facts and circumstances, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

21.12.2021

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No