

In the High Court of Punjab and Haryana at Chandigarh

**CRM-M No. 4319 of 2022
Date of Decision: 17.3.2022**

Ismail

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Gautam Dutt, Advocate for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

Mr. Mohd. Arshad, Advocate for the complainant.

SURESHWAR THAKUR, J. (ORAL)

1. In FIR bearing No. 02 of 7.1.2021, offences constituted under Sections 148, 149, 323, 341, 379-B, 506 IPC, Section 25 of the Arms Act, 1959, and, later on added Sections 325, 307 IPC, are embodied. The FIR (supra) is lodged at Police Station Utawar, District Palwal.

2. However, it is stated at the bar by the learned State counsel, that the penal provisions cast under Section 25 of the Arms Act, 1959, are deleted.

3. The incriminatory role, as assigned to the petitioner, and, the other co-accused, is of theirs, with a common object, making an unlawful assembly, and, assaulting the complainant, resulting in life endangering injuries becoming inflicted on the spinal cord, and, on the legs of the victim.

4. The learned State counsel, on instructions given to him by ASI Subhash Chand, submits, that the petitioner-bail applicant entered judicial custody, on 07.12.2021, and, is obviously still suffering judicial incarceration. He further submits that the relevant recovery, at the instance of the petitioner-bail applicant, inasmuch as of danda, as became allegedly used to inflict

injuries, on the person of the victim, stands effectuated by him, to the

investigating officer concerned. He further submits that the investigations, insofar as they relate to the present petitioner, hence are complete, and, that the other co-accused are yet to be arrested.

5. The learned counsel appearing on behalf of the complainant vehemently argues before this Court, that the petitioner may not be admitted to bail, as in the event of his release on bail, there is every likelihood of his being fleeing from justice, and, tampering with the prosecution evidence. However, though the afore stated submission, appears to be supported through other co-accused, who became, earlier to the present petitioner, rather admitted to bail, repeating the assault upon the person of the victim. However, the afore penal conduct of the co-accused, post theirs being admitted to bail, cannot constrain this Court, to firmly conclude, that also hence, there is every likelihood of the petitioner-bail applicant, also proceeding to tamper with prosecution evidence, or influencing the prosecution witnesses. Therefore, for the afore reasons, this Court is, at this stage, constrained to accord the indulgence of bail to the petitioner-bail applicant.

6. Moreover, though, the victim has suffered injuries on his spinal cord, and, legs, yet the learned State counsel has stated at the bar that the victim has been discharged from the hospital. In addition, he also states that the spinal injuries are reported to not lead to any serious damage.

7. However, at this stage, the learned State counsel submits, that since the bail applicant-petitioner is a habitual offender, and, though he may have received a verdict of acquittal from the learned Judicial Magistrate concerned, yet the afore antecedental tainted conduct of the petitioner-bail applicant, is a sufficient ground for declining to him, the indulgence of bail.

The afore submission is well merited, as the verdict of

acquittal, as received by the petitioner-bail applicant, from the learned Judicial Magistrate concerned, may not at this stage, be conclusive, and, binding, as an appeal thereagainst, may be reared by the State of Haryana, before the learned Appellate Court concerned. Nonetheless, even the afore apprehension reared before this Court, by the learned State Counsel, before this Court, can be mitigated, by imposition of stringent conditions, upon the petitioner-bail applicant.

9. Consequently, the instant petition is allowed, and, the petitioner-bail applicant is ordered to be released from judicial custody. However, the granting of bail to the bail applicant-petitioner, is subject to his 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. Further, subject to petitioner-bail applicant making an undertaking before the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, that in case, he re-indulges in criminal activities, whereupon, on breach thereof, the order made today, shall become *ipso facto* annulled, and, that, upon, his being forthwith arrested by the investigating officer concerned, the latter shall produce the petitioner-bail applicant before the trial Court concerned, for the latter making an order for his being put to judicial custody.

10. Copy dasti.

(SURESHWAR THAKUR)
JUDGE

March 17, 2022
Gurpreet

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