

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

275

CRM-M-30110-2021

Date of Decision:17.05.2022

Sandeep Singh @ Deepa

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

**Present: Mr. Kanwar Inder Singh, Advocate and
Ms. Jasleen Kaur, Advocate,
for the petitioner.**

Mr. Karanbir Singh, A.A.G., Punjab.

VINOD S. BHARDWAJ , J.

The instant petition has been filed under Section 439 of the Code of Criminal Procedure with a prayer seeking regular bail to the petitioner in case bearing FIR No.241 dated 01.11.2019 under Sections 323, 324, 326, 307, 341, 148, 149, 120-B & 379-B of the Indian Penal Code, registered at Police Station Tanda, District Hoshiarpur.

The case of the prosecution registered on the statement of complainant-Jaskaran Singh son of Gurdip Singh recorded on 01.11.2019 is to the effect that the complainant was working as a driver in Martial School, Bainsan and that on 27.10.2019, he along with Agyapal Singh had gone to Tanda to bring household articles. On their way back, one Karanvir Singh also sought lift from them. When they had reached near Cinema Chowk, Tanda, 20-25 persons armed with weapons were standing on motorcycles

and starting following them. At about 09.45 PM , they waylaid them at Kotli Jand G.T. Road. The petitioner-accused Sandeep Singh @ Deepa was alleged to be armed with a 'Kirpan' along with other accused persons. He was attributed a 'kirpan' blow from its reverse side on the head of the complainant-Jaskaran Singh. After causing injuries, the accused persons ran away from the spot. It is also contended that a DDR pertaining to the cross-version bearing No.26 dated 08.11.2019 was also registered on the statement of Jagpreet Singh @ Jagga to the effect that it was basically the complainant-party that had stopped the petitioner and the others from celebrating the Diwali festival and had caused injuries to them.

Learned counsel appearing on behalf of the petitioner contends that all other co-accused except accused-Pamma, who has not applied for anticipatory bail, have already been granted the concession of anticipatory bail in the instant case and that even though Section 307 IPC has been added, however, no injury sustained by the complainant-Jaskaran Singh was declared dangerous to life.

Reliance is placed upon the status report filed by way of affidavit of Raj Kumar, PPS, Deputy Superintendent of Police, Sub Division, Tanda, District Hoshiarpur dated 30.03.2022. The relevant extract of the said status report reads thus:-

“That it is submitted that according to his MLR, the complainant Jaskaran Singh suffered 4 injuries all injuries were caused with sharp weapon. The opinion from the doctor was obtained regarding the injury of complainant Jaskaran Singh and he declared injury No.1 and 2 of complainant Jaskaran Singh to be grievous in nature and as the grievous injury was on the head of the complainant Jaskaran Singh so offence U/s 307 IPC was added to the present main FIR/case

vide DDR No.17, dated 01.01.2020. However, no injury on the person of injured Jaskaran Singh was declared to be dangerous to life.”

Learned counsel for the petitioner has, thus, argued that offence under Section 307 IPC has been attracted only on the basis of a grievous injury having been caused without any opinion of the doctor that the said injury was dangerous to life. It is argued that the petitioner is in custody since 15.03.2021 and despite completion of investigation and lapse of more than 01 year and 02 months in custody, the charge has not been framed so far. Therefore, conclusion of trial is not likely to be concluded in the near future.

Learned State Counsel, on the other hand, has opposed the petition by submitting that the injury attracting Section 307 IPC is attributed to the petitioner. The seat of injury with the back of the '*kirpan*' is on the head of the complainant and as such, it was on the vital part of the body. The injury being grievous would have *ipso facto* attracted Section 307 IPC. He, however, could not controvert the facts as narrated in the status report filed by the prosecution and also the fact that the charge has not been framed so far.

Taking into consideration the circumstances noticed above and the fact that the petitioner has already undergone an actual custody of more than 01 year and 02 months, trial has not yet commenced and also all other co-accused except accused-Pamma, who has not applied for anticipatory bail, have already been granted the concession of anticipatory bail in the present case. Besides, the true genesis of the occurrence is yet to be determined being a case of version and cross-version. The conclusion of trial may take a long time. Thus, I deem it appropriate to enlarge the

petitioner on regular bail.

The instant petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses, in any manner, directly or indirectly.

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

The petition is allowed.

May 17, 2022
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No