

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-51038-2021 (O&M)

Date of Decision: 18.04.2022

Rishav Benipal @ Nanu

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. G.S. Ghuman, Advocate with
Mr. L.S. Maan, Advocate, for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

Mr. S.P.S. Aulakh, Advocate, for the complainant.

JASGURPREET SINGH PURI, J.(Oral)

The present petition been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.0041 dated 12.02.2020, under Sections 307, 323, 324, 325, 326, 506, 148 and 149 IPC, registered at Police Station Moti Nagar, District Police Commissionerate, Ludhiana.

Learned counsel for the petitioner has submitted that the petitioner is in custody from 22.02.2020 and no prosecution witness has been examined. He further submitted that it is a case where the allegations against the petitioner were that he alongwith some other co-accused had attacked the complainant and caused injuries to him. He further submitted that the role assigned to the petitioner was that he was holding a baseball and he had also participated in the offence. He further submitted that the

investigation of the case has been completed and challan has been presented and no recovery is to be effected from the petitioner and, therefore, the petitioner may be considered for the grant of regular bail. He further submitted that some of the other co-accused namely, Sandeep Singh and Ankit Sharma have been granted bail by this Court on 25.11.2021 and other two co-accused namely, Neeraj Sharma and one other co-accused have been granted bail by this Court on 07.01.2022 and the allegations against them were also pertaining to possessing khanda and baseball and, therefore, the petitioner is at parity with the aforesaid co-accused and may be considered for the grant of regular bail.

On the other hand, Mr. Randhir Singh Thind, learned DAG, Punjab has stated that an affidavit has been filed by the Assistant Commissioner of Police, Industrial Area-A, Ludhiana and while referring to the aforesaid affidavit he submitted that the petitioner was an active member of the gang which had attacked the injured in the present case. He further submitted that although the investigation of the case is complete and recovery of baseball has already been effected from the petitioner and no further recovery is to be effected so far as the present case is concerned but the petitioner cannot be termed at parity with the aforesaid accused who have been granted bail by this Court. While referring to para 4 of the affidavit he submitted that while the petitioner is in custody in the present case, an FIR was lodged on the basis of a complaint made by one Hitesh Soni in FIR No.106 dated 05.06.2021, under Sections 307, 326, 325, 324, 323, 451, 506, 148 and 149 IPC and during investigation a supplementary statement was made by the aforesaid Hitesh Soni that the attack was effected upon the complainant by the petitioner who is a leader of the gang and was

confined in the jail and it was that at his instance that the murderous attack was made on Hitesh Soni. He further submitted that the present petitioner is also involved in as much as 17 more cases, the details of which have been mentioned in para No.7 of the affidavit. The learned Deputy Advocate General, Punjab has vehemently opposed the grant of bail to the petitioner not only on the ground of his antecedents but also on the ground that while in custody he has committed another offence by which he was nominated in FIR No.106 dated 05.06.2021 and he had also conducted video conferencing while in jail.

I have heard the learned counsel for the parties.

The petitioner is in custody from 22.02.2020 and no prosecution witness has been examined. It is correct that the investigation of the case has been completed and no further recovery is to be effected from the petitioner and some of the other co-accused have been granted bail by this Court. However, the learned Deputy Advocate General has referred to the affidavit filed by the State by which it can be clearly seen that the petitioner cannot be termed at parity with the aforesaid co-accused who have been granted bail by this Court. As per the affidavit filed by the State the petitioner while in custody in the present case was also involved in another FIR No.106 dated 05.06.2021, under Sections 307, 326, 325, 324, 323, 451, 506, 148 and 149 IPC while in jail itself and it has been specifically stated in the affidavit that the accused in the aforesaid FIR No.106 dated 05.06.2021 formed a gang of which the petitioner is the leader. Apart from the same, as per affidavit the petitioner is also involved in as much as 17 more cases. Therefore, on the face of it cannot be said that the petitioner is at parity with the co-accused who have been granted bail.

In view of the aforesaid factual position as stated by the learned State counsel and the facts mentioned in the affidavit filed by the State, this Court is of the view that the petitioner is not entitled for the grant of regular bail.

Consequently, the present petition being devoid of merit is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

18.04.2022

rakesh

(JASGURPREET SINGH PURI)
JUDGE

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