

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-52763-2021 (O&M)
Date of decision: 28.03.2022

Deepak

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. S.K. Verma, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.04 dated 05.01.2018 under Sections 148, 149, 302, 307, 323, 324, 325, 326, 506(II) IPC, registered at Police Station Julana, District Jind.

Learned counsel for the petitioner relies upon the order dated 08.11.2021 passed in CRM-M-30656-2021, vide which co-accused Ajay has already been granted the concession of regular bail. The operative part of the order reads as under: -

“...Learned counsel for the petitioner relies upon order dated 12.07.2021 passed in CRM-M-22332-2021, vide which co-accused Sanjay has been granted the concession of regular bail by this Court. The operative part of the order reads as under:

“Learned counsel for the petitioner submits that the FIR was registered on the statement of complainant Baljeet that his neighbour Deepak has enticed away Kusum, wife of his youngest son Lalit and thereafter, a compromise was effected in Panchayat. On 04.01.2018, Banty son of Sanjeev @ Pappu, Sanjeev @ Pappu son of Ved Parkash, Sanjay, Sushil @ Kuka sons of Ved Parkash, Kaju @ Rahul son of Pinki @ Krishan, Pinki @ Krishan son of Ved Parkash, Ajay son of Pinki @ Krishan and Toni son of Goga with common object, carrying arms i.e. knives, swords, iron rods and wooden bats started beating his son Sumit and Sachin. When the complainant and his son intervened, then Rahul son of Krishan @ Pinki gave two knife blows, Banty gave iron rod blow and other accused gave fist blows and slaps.

Learned counsel for the petitioner has further submitted that the petitioner was arrested and was granted the concession of regular bail by the Additional Sessions Judge on 09.04.2018, noticing the fact that as per statement of the injured person recorded under Section 161 Cr.P.C., no injury is attributed to the present petitioner, whereas specific injuries were attributed to co-accused. It is also submitted that the incident occurred on 04.01.2018 and complainant Baljeet died on 11.11.2018 and thereafter, the police added Section 302 IPC and re-arrested the petitioner on 18.05.2019. It is thus submitted that it will be a matter of

trial whether death of Baljeet, who died after about 10 months of the occurrence, was due to aggravation of injuries sustained by him in the incident or not.

It is further submitted that the petitioner is in custody for the last about 02 years and 04 months and is not involved in any other case. It is next submitted that after recording statement of the complainant, an application under Section 319 Cr.P.C. was moved and the same was allowed and some more persons were summoned as additional accused and on that account, the trial is delayed and even the persons, who were summoned as additional accused, have already been released on bail.

Learned State counsel has filed the custody certificate dated 09.07.2021 in the Court today and has not disputed the factual position.”

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

Learned counsel for the petitioner submits that the case of the petitioner is on the similar footing as of aforesaid co-accused Sanjay as there is no specific allegation against the petitioner and the main accused is Rahul, who has caused two knife blows to the stomach of deceased Baljeet.

Learned counsel further submits that even one another co-accused, namely Ajay, has also been released on regular bail, vide order dated 16.07.2021 passed by the Additional Sessions Judge, Jind.

Learned counsel further submits that one of the eyewitnesses, namely Sachin Kumar, who is the son of aforesaid deceased, while appearing as PW-1, has not supported the prosecution version and this witness was declared hostile and even during cross-examination, he denied to having made any statement Ex. P1 to the police.

Learned State counsel has filed the custody certificate, as per which, the petitioner is in judicial custody since 18.05.2019.

Learned State counsel, on the basis of the affidavit of the Investigating Officer, submitted that during investigation, it is found that all the accused persons attacked the complainant/deceased Baljeet and his sons when a Panchayat was convened and Rahul s/o Krishan gave to knife blows in the stomach of Baljeet and Bunty gave iron rod blow on his foot and other accused gave fist and slap blows to victims. It is further submitted that the recovery of the knife was effected from co-accused Rahul and similarly all the accused were arrested and their respective weapons were also recovered. It is also submitted that PW-2 Sumit was examined and thereafter, an application under Section 319 Cr.P.C. was moved and accused Toni, Sanjeev @ Pappu, Sushil @ Kuka and Pinki @ Krishan were summoned as additional accused and the petitioner. It is further stated that the petitioner was also involved in FIR No. 77 dated 09.04.2016, in which he stands acquitted...”

Learned counsel submits that as per allegations in the FIR, the

petitioner enticed away Kusum, daughter-in-law of deceased Baljeet. Thereafter, a panchayat was convened and compromise was effected. It is further stated that the petitioner and other accused have caused injuries to the complainant side. It is further submitted that the incident occurred on 04.01.2018 and the petitioner was granted the concession of regular bail on 13.07.2018. It is also submitted that Baljeet later on died on 11.11.2018 and the petitioner was re-arrested on 18.05.2019. It is next submitted that two injured witnesses Sachin Kumar and Sumit have already been examined as PW1 and PW2 respectively and they have not supported the prosecution version, therefore, they have been declared hostile and in cross-examination by the Public Prosecutor, they have even denied having made any statement to the police.

Learned counsel has placed on record deposition of PW2 Sumit and PW3 Monu, to submit that even other two injured witnesses have not supported the prosecution version, as they have not identified the accused in the Court and have stated that the persons, who attacked, were having muffled faces. These witnesses were declared hostile and in cross-examination, they have even denied making statement to the police.

Copies of deposition of PW2 Sumit and PW3 Monu are taken on record as Mark 'A' and Mark 'B'.

Learned State counsel, on the basis of affidavit of the Investigating Officer/ASI Surender Kumar, presently posted at CIA, Jind, District Jind, filed in the Court today, has submitted that allegations against the petitioner are that he has caused injuries to one of the injured Monu, which, as per the MLR, are blunt in nature.

Learned State counsel, on the basis of custody certificate dated 27.03.2022, filed in the Court today, has not disputed that the petitioner is in custody for the last 04 months and 15 days and is not involved in any other case.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the fact that the petitioner is in custody for the last 04 months and 15 days; he is not involved in any other case and all three injured witnesses are already declared hostile, as they have not supported the prosecution version and have even not identified the accused present in the trial Court, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

28.03.2022
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No