

CRM-M-23614-2023 (O& M)
(225)

::1::

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-23614-2023 (O & M)
Date of decision: 17.10.2023

Paramjit

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rahul Deswal, Advocate, for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in this second petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in case FIR No.0274 dated 22.09.2020 under Sections 394, 397, 506 IPC (Sections added later on 326, 379-B, 395 IPC and Section 394 IPC was deleted later on) registered at Police Station Kalayat, District Kaithal.

2. The present FIR came to be registered at the instance of Amardeep son of Suresh Kumar who stated that he was a student of a college which had closed down on account of the COVID 19 Pandemic. In the meantime, he was working at a liquor shop where he was doing the job of delivering food to the salesmen and of collecting cash. On 21.09.2020, he left his rented house on a motorcycle bearing No.HR-08Z-5055 make Splendor to deliver food to the salesman, namely, Krishan and had reached at the liquor shop in the fields at about 9.30 p.m. After giving food to the

salesmen and collecting Rs.11,000/- of the sale proceeds of the day, when he

CRM-M-23614-2023 (O& M)
(225)

::2::

came out of the shop, 4-5 young boys with their faces covered came towards the liquor shop armed with iron rods and *gandasis*. On seeing them he ran towards the fields with Rs.11,000/- in his hand. The boys shouted at him and one of the young boys threw an iron rod which stuck his leg and he fell down on the *kacha* road. Then another boy gave a *gandasi* blow on the calf of his right leg and 3/4 boys gave him injuries with an iron rod on his right arm, left leg and on his back. They snatched Rs.11,000/- from his hand and gave a threat to kill him, after which they fled away from the spot. He could not recognize them as their faces were covered but one of the boys while running had shouted the name "Pammi". After receiving a phone call from somebody his father-Suresh Kumar came to the spot in a Bolero canter vehicle alongwith one Vikas and they took him (complainant) to Government hospital Kalayat from where he was referred to Civil Hospital, Kaithal. Legal action was sought against the unknown boys.

During the course of the medico legal examination of the injured-complainant, he was found to have suffered two injuries. Injury No.1 was found to have been caused by a sharp-edged weapon and an X-ray and Ortho opinion was advised whereas injury No.2 was found to have been caused by a blunt weapon. On the basis of the above allegations and the injuries, the FIR was initially registered under Sections 394, 397 and 506 IPC.

On 30.08.2022, the X-ray report of the injured-complainant was collected from Government Hospital, Kaithal in which the doctor detected a fracture and therefore, the offence under Section 326 IPC was added.

On 02.10.2021, Amardeep got recorded his statement under

CRM-M-23614-2023 (O& M)
(225)

::3::

(petitioner), Sahil, Abhishek, Yogesh @ Yogi and Golu, the sister's son of Paramjit were involved in the present occurrence.

On 03.02.2021, Abhishek was apprehended. During interrogation, he got recovered two currency notes of the denomination of Rs.500/- each i.e. Rs.1000/- alongwith a *danda*.

During the course of investigation, the offence under Section 395 IPC was added.

On 22.03.2021, accused-Sahil @ Sali was arrested and got recovered a *danda* alongwith an amount of Rs.550/- out of Rs.2,000/- which had come to his share.

On 24.03.2021, Balinder son of Sultan produced the photocopy of the Aadhar Card and Date of Birth Certificate of his son-Jasbir @ Golu. Juvenile Jasbir @ Gollu @ Golu was interrogated and based on the documents submitted by his father including his Date of Birth Certificate, the challan against juvenile-Jasbir @ Golu was prepared and submitted in the Juvenile Justice Board on 04.04.2021. Meanwhile, the offence under Section 394 IPC was not found to have been committed, and therefore, the said offence was deleted.

Arrest warrants of the petitioner and Yogesh Kumar @ Yogi were got issued from the Court. Production warrants of the petitioner were issued on 09.06.2021. On 30.05.2021, Yogesh Kumar @ Yogi was joined in the investigation and got recovered a Bamboo *danda* used in the crime alongwith the currency notes of Rs.1,000/- out of the looted amount of the complainant.

On 09.06.2021, the petitioner was joined in the investigation

with the permission of the Court. In pursuant of his disclosure statement, he

CRM-M-23614-2023 (O& M)
(225)

::4::

got recovered an iron *gandasi* and 10 currency notes of the denomination of Rs.100/- each i.e. Rs.1,000/-. On 22.06.2021, the the medical board gave an opinion regarding the iron *gandasi* of Paramjit and Bamboo *danda* of Yogesh and opined that *“the Board is of the opinion that the MLR of Amardeep son of Suresh Kumar No.DS/629/2020 was conducted by Dr. Divya Singh on 21.09.2020. She examined the patient in the initial style during conducting of MLR about 8 months back. Moreover, the opinion regarding nature of injury and weapon (No.2 has already been given by Dr. Divya Singh on 19.03.2021). At this stage, the board is unable to give opinion regarding nature of injury and weapon and the opinion to be taken from the doctor, who has conducted the MLR and examined the patient”*. On an objection being raised by the Public Prosecutor, the offence under Section 379-B IPC was added in this case.

The report under Section 173(2) Cr.P.C. against the accused Abhishek and Sahil was submitted to the Court and the report against juvenile-Jasbir was submitted to the Juvenile Justice Board on 04.04.2021. The report under Section 173(8) Cr.P.C. against Sahil and Abhishek was submitted on 31.05.2021 and the report under Section 173 Cr.P.C. against the petitioner was submitted on 06.07.2021. Similarly, the report under Section 173 Cr.P.C. was submitted against Yogesh on 17.05.2021.

3. The learned counsel for the petitioner states that the petitioner had been falsely implicated in the present case. He had not been properly named in the FIR. Two witnesses, namely, Suresh Kumar-father of the complainant-Amardeep and Vikas, both of whom had come to the spot immediately after the occurrence had been examined as PW-1 and PW-2

respectively and had not supported the prosecution case. So far as the

CRM-M-23614-2023 (O& M)
(225)

::5::

complainant-Amardeep was concerned, he had not been appearing in the Court to depose as a prosecution witness and it had now transpired that he has gone abroad.; There was no categorical opinion that the weapon recovered from the petitioner had been used in the occurrence. The co-accused of the petitioner had been granted the concession of either regular bail or anticipatory bail as was evident from the orders Annexures P-4, P-5 and P-6 respectively. Though the petitioner was an accused in 05 other cases bearing FIR No.262 dated 16.10.2018 under Sections 61-1-14 of the Excise Act, Police Station Bhawani Kheda, FIR No.625 dated 25.12.2018 under Sections 379, 411 IPC, Police Station Civil Line Kaithal, FIR No.340 dated 19.12.2018 under Sections 323, 379, 427, 506, 34 IPC, Police Station Kaithal, FIR No.59 dated 29.07.2019 under Sections 392, 395 IPC, Police Station Sector 29, Panipat and FIR No. 215 dated 31.07.2020 under Sections 148, 149, 323, 325, 452 and 506 IPC, Police Station Kalayat, District Kaithal, he had been granted the concession of bail in each of those cases vide orders Annexures P-7 to P-11. As the petitioner was in custody since 09.06.2021 and only 04 out of the 22 prosecution witnesses had been examined so far, the trial of the present case was not likely to be concluded anytime soon, and therefore, the petitioner was entitled to the concession of bail.

4. The learned counsel for the State, on the other hand, while referring to the reply dated 12.10.2023 contends that the petitioner was the main accused and was named in the FIR as "Pammi". The grievous injury had been attributed to the petitioner. He was an accused in as many as 05 other cases, and therefore, had criminal antecedents. He was, thus, not

entitled to the concession of bail. He, however, concedes that all the co-

CRM-M-23614-2023 (O& M)
(225)

::6::

accused of the petitioner had been granted the concession of bail, in the other 05 cases registered against the petitioner, he had been granted the concession of bail, PW-1/Suresh Kumar and PW-2/Vikas had not supported the prosecution case as also the fact that the complainant-Amardeep had gone abroad.

5. I have heard the learned counsel for the parties.

6. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of trial. The petitioner is in custody since 09.06.2021 and only 04 of the 22 prosecution witnesses have been examined so far. Two of the said witnesses, namely, Suresh Kumar and Vikas have been examined as PW-1 and PW-2 and have not supported the prosecution case. The complainant has gone abroad and has not deposed till date. In the other cases registered against the petitioner vide FIR No.262 dated 16.10.2018 under Sections 61-1-14 of the Excise Act, Police Station Bhawani Kheda, FIR No.625 dated 25.12.2018 under Sections 379, 411 IPC, Police Station Civil Line Kaithal, FIR No.340 dated 19.12.2018 under Sections 323, 379, 427, 506, 34 IPC, Police Station Kaithal, FIR No.59 dated 29.07.2019 under Sections 392, 395 IPC, Police Station Sector 29, Panipat and FIR No. 215 dated 31.07.2020 under Sections 148, 149, 323, 325, 452 and 506 IPC, Police Station Kalayat, District Kaithal, he has been granted the concession of bail vide orders Annexures P-7 to P-11. Therefore, the further incarceration of the petitioner in the instant case is also not warranted.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Paramjit is ordered to be released on

CRM-M-23614-2023 (O& M)
(225)

::7::

bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the cases referred to in this order.

9. If any attempt whatsoever is made by the petitioner and/or his family members/friends to contact/threaten/intimidate any of the witnesses of the present occurrence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.

10 In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

October 17, 2023
sukhpreet

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