

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33934-2020

Date of Decision : 18.12.2023

Pardeep Kumar ...Petitioner
Versus
State of HaryanaRespondent

CRM-M-41293-2020

Sahil ...Petitioner
Versus
State of HaryanaRespondent

CORAM: HON’BLE MR. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Bhupinder Ghai, Advocate for the petitioner.

Mr. Rahul Mohan, Sr. DAG, Haryana.

Mr. Varshit Garg, Advocate for Mr. Aayush Gupta, Advocate for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

This order shall dispose of two petitions bearing **CRM-M-33934-2020** and **CRM-M-41293-2020**. For brevity, facts are being taken from CRM-M-33934-2020.

2. The present petitions have been filed seeking grant of regular bail to the petitioners in case FIR No.98 dated 15.05.2020, under Section 148, 149, 188, 323, 325, 506 IPC, subsequently deleted Sections 148, 149 IPC and Sections 324, 307, 34 IPC added, registered at Police Station Shahzadpur, District Ambala.

3. Learned counsel for the petitioner-Pardeep Kumar, submits that the petitioner was extended the concession of interim bail on 16.11.2020 by a Co-ordinate Bench of this Court in the following terms.

“The petitioner in this petition, i.e. Pardeep Kumar, is seeking to be admitted to bail he having been arrested in the case on 28.6.2020, with learned counsel for the petitioner submitting that the role attributed to him is beating up of Pirthi Singh with an iron rod and therefore since this court has already dismissed today itself, the petition of the co-accused Megh Raj, seeking to be admitted to anticipatory bail, on the ground that he was the one who is alleged to have hit Pirthi Singh with a gandasi, the present petitioner deserves to be admitted to bail.

Learned State counsel and counsel for the complainant though obviously could not deny the role attributed to the petitioner, however submitted that with him also having beaten up Pirthi Singh, he does not deserve to be admitted to bail looking at the injuries received by Pirthi Singh.

Having considered the matter, though otherwise I would be agreeable with learned State counsel and learned counsel for the complainant, however, considering the fact that the petition filed by Megh Raj has been dismissed, it being one seeking anticipatory bail, whereas in the present petition, the petitioner has already been in custody for the past almost 5 months, with the trial still to begin, keeping also in view the current pandemic situation, he is ordered to be admitted to interim bail upon him furnishing adequate bail bonds and surety bonds to the satisfaction of the learned trial court/CJM/Duty Magistrate concerned, till the next date of hearing before this court.

2(a) Qua Sahil, learned counsel for the petitioner, submits that the petitioner was extended the concession of interim bail on 27.11.2021 by a Co-ordinate Bench of this Court in the following terms.

“Learned counsel for the petitioner relies upon an order passed by this court on 16.11.2020, in the case of a co-accused who had filed CRM-M-33934-2020, seeking the same concession, with him submitting that the petitioner is identically placed as that petitioner, i.e. Pardeep Kumar, with a similar role having been attributed to him and he having been in custody since June, 2020.

He also submits that even as per the MLR the injury attributed to the petitioner (with a sword on the neck of Prithi Singh), is not seen to be present.

Learned State counsel however submits that the petitioner having been attributed the role of beating up Prithi Singh and Babar Sher with an iron rod, he does not deserve to be admitted to bail.

Learned counsel for the petitioner counters that what has been observed by the learned Addl. Sessions Judge, in the order rejecting a similar petition filed before that court, is factually incorrect because as per the FIR the petitioner was attributed a role of only beating up Prithi Singh and not Babar Sher.

Having considered the matter, especially with regard to what has been contended regarding the injury on the person of Prithi Singh on his neck not having shown up in the MLR, the petitioner is ordered to be admitted to interim bail, upon him furnishing adequate bail and surety bonds to the satisfaction of the trial court/CJM/Duty Magistrate concerned, till the next date of hearing before this court. ”

4. It has been submitted that after the petitioners were admitted on interim regular bail, they had neither misused the said concession of bail nor had they been involved in any other criminal case; furthermore, an application under Section 319 Cr.P.C. had been moved by the prosecution and subsequently allowed by the trial Court as a result of which *de novo* trial had now commenced. It has been thus, asserted that since as many as 28 prosecution witnesses have been cited by the prosecution, the trial is unlikely to conclude in the near future as none of the prosecution witnesses had been examined after the application under Section 319 Cr.P.C. for summoning of additional accused to stand trial had been allowed. Learned counsel for the petitioner has also reiterated that though, petitioner-Sahil had been attributed sword blow on the neck of injured-Pirithi Singh, however, the MLR which has been annexed as Annexure P-6 did not reflect any such injury on injured person. Qua the petitioner-Pardeep Kumar, learned counsel for the petitioner has reiterated that he had been attributed blows with iron rods on the injured person-Pirithi Singh, however, there was no specific injury attributed to the

petitioner. It has also been contended that the occurrence in question allegedly took place on the evening of 12.05.2020 and on the following day itself, the petitioner(s), namely Pardeep Kumar and Sahil had lodged FIR Nos.94 dated 13.05.2020 FIR No.98 and 15.05.2020 respectively, against the complainant party wherein a vivid account of the entire occurrence had been detailed. He further submits that it was two days later, the complainant party lodged the FIR in question against the petitioner(s) which left no manner of doubt that a highly exaggerated version had been brought-forth against them.

5. Per contra, learned State counsel assisted by SI Bir Bhan, has opposed the prayer and submissions made by the counsel opposite. However, learned State counsel has not been able to dispute that the MLR of Pirthi Singh did not reveal any injury on his neck which had been attributed to petitioner-Sahil. However, he submits that all the accused including the petitioner(s) were armed with lethal weapons such as iron rods/swords and *gandasi*, with which they attacked the complainant party and inflicted multiple injuries which find duly reflected in their respective MLRs. Learned State counsel has also not disputed that this is a case of version and cross version wherein the accused party had also sustained injuries at the hands of the opposite party and furthermore, the FIR registered by the petitioner(s) (accused herein) had been registered prior in time. Learned State counsel has, on further instructions, informed the Court that the next date fixed before the trial Court is 04.01.2024 when the prosecution evidence is likely to commence.

6. On a pointed query put to the learned State counsel as to whether the petitioner(s) are involved in any other criminal case, he, on instructions, has submitted in the negative. It has not been controverted by learned State

of interim regular bail granted to them by this Court vide order dated 16.11.2020 and 27.11.2021.

7. In view of the above, the petitions are allowed and interim orders dated 16.11.2020 and 27.11.2021 are made absolute . The petitioners be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

8. Needless to say, in case the petitioner(s) misuses the concession of bail granted to them, the State would be at liberty to seek cancellation of the bail granted to them.

December 18, 2023
Ps

(MANJARI NEHRU KAUL)
JUDGE

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