

CRM-M-38196-2022

2023:PHHC:138548

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207

CRM-M-38196-2022

Date of Decision : October 30, 2023

SATENDER @ SONU

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Aman Pal, Advocate
for the petitioner.

Mr. Krishan K.Chahal, Addl. AG, Haryana.

Mr. Gaurav Tyagi, Advocate
for the complainant.

KULDEEP TIWARI. J.

1. This is the first application filed by the petitioner for the grant of regular bail in case FIR No. 413 dated 7.10.2021, under Sections 323, 325, 307, 506, 147, 148, 120-B IPC, registered at Police Station Palam Vihar, District Gurugram.

2. The prosecution agency was set into motion on the information received on dated 7.10.2021 by ASI Dev Dutt from Asian Columbia Hospital, Palam Vihar regarding admission of one Dev Kumar due to injuries in the fight. Thereupon the Investigating Officer reached the hospital in response to the *ruqa* and collected the MLR of the injured. The statement of complainant/injured was recorded wherein, he alleged that in 2019, ECO Green was given a tender to collect the garbage by the

MCG. However, in Palam Vihar Extension the garbage was collected by Shakuntala's (Councilor, Municipal Corporation, Gurugram) and her family member, namely, Naveen Yadav and the complainant made number of complaints regarding misdeeds of Shankutala and Naveen Yadav. It is due to this animosity that accused persons had given beatings to him. It was alleged that on an earlier occasions also, accused Naveen Yadav had threatened to kill him, however, later he apologized and thereafter complaint was filed. On 7.10.2021 at 6.30 a.m. when he was cleaning the road, two persons came on a bike without number plate. Four other boys came from the other side. All of them were armed with iron rods and wooden sticks(dandas). Thereafter, they started giving blows to him with wooden sticks and rods. Due to the injuries inflicted upon him, he suffered fracture. The persons who gave beatings to him were associated with accused Naveen Yadav and were acting on his directions.

3. During investigation, two dandas used by the accused persons and one cap was recovered on the demarcation of the wife of the complainant from the spot. The X-ray report shows that the complainant/injured has suffered 5 injuries and out of 5 injuries, injuries No. 1, 2 and 3 were shown to be deformity. During investigation, accused-Jagdeep @ Nini was arrested on dated 21.12.201 and in his disclosure statement, the name of the present petitioner was surfaced, upon which the present petitioner was arrested on dated 11.4.2022 and a Baleno vehicle bearing No.HR-95-A-0810 was recovered from the

present petitioner. Apart from that, he also demarcated the place of occurrence. According to the prosecution, the petitioner was associated with the other main accused person and caused injuries to the complainant/injured. Initially, the case was registered under Sections 147, 323, 325 and 506 read with Section 149 IPC. However, on the statement of Ms. Mamta and on analysis of MLR, Sections 148, 307 read with Section 120-B IPC were invoked and Section 149 IPC was deleted by the Investigation Officer.

4. Learned counsel for the petitioner has submitted that the petitioner is not named in the FIR and no specific role has been attributed to any of the accused. His name was only surfaced in the disclosure statement of co-accused, which has no evidentiary value. He has further submitted that as per the prosecution, all the assailants were muffled face, therefore, requires identification parade and admittedly no identification parade was conducted by the investigating agency. He has submitted that the doctor has not declared any of the injuries to be dangerous to life, therefore, the invocation of Section 307 IPC, is absolutely illegal and the same has been done with intention to aggravate the offence. Learned counsel for the petitioner has placed reliance upon the order dated 5.4.2022, passed by this Court in CRM-M-4914-2022 whereby, the regular bail was granted to the main accused, namely, Naveen Yadav against whom the motive was alleged. He has further submitted that the petitioner is in custody since 11.4.2022.

5. Per contra, the learned State counsel as well as the learned counsel for the complainant have vociferously opposed the grant of

regular bail to the petitioner on the ground that the petitioner is also involved in three other cases, therefore, considering the role of the petitioner in the present FIR as well as his antecedents, he does not deserve the concession of regular bail.

6. Learned counsel for the petitioner has submitted that in the other three FIRs in which the petitioner has been named, he is on bail.

7. I have heard the learned counsel for the parties and examined the entire record.

8. The learned State counsel on instructions from the IO has submitted that out of 32 witnesses only 5 witnesses have been examined and the next date fixed before the trial Court is 16.12.2023 for recording of the prosecution witnesses.

9. It is undisputed fact that the complainant/injured has been discharged from the hospital and he is now hale and hearty. The present petitioner was arrested on dated 11.4.2022 and since then he is behind the bar. Considering the fact that the issue of invocation of Section 307 IPC by the investigating agency is a debatable issue and co-accused Naveen Yadav and Shankutala have been granted the benefit of regular bail, whose names have been mentioned in the FIR, whereas, the petitioner was not named in the FIR and no specific injury is attributed to the present petitioner, this Court finds merit in the present petition.

10. Without commenting on the merits of the case, this Court deems it fit and appropriate to extend the benefit of regular bail to the petitioner, considering the length of incarceration and the stage of the

CRM-M-38196-2022

trial, which is at its initial stage and the completion of the trial will take considerable long time. Therefore, the present petition is allowed.

11. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

12. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

October 30, 2023
ajay-1

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No