

245

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRA-S-2118-2023

Date of Decision :22.11.2023

GURMEET

... Appellant

Versus

STATE OF HARYANA AND ANR.

... Respondents

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Kartik Khicher, Advocate for the appellant.

Mr. Surender Singh, AAG, Haryana.

.....

SANJIV BERRY, J.

Mr. Deepak Choudhary, Advocate has put in appearance on behalf of respondent No.2-complainant and filed Vakalatnama. The same is taken on record.

2. It is inter alia contended by learned counsel for the appellant that the appellant has already appeared in the trial Court in compliance of the order dated 11.09.2023 and furnished the requisite bail bonds and also placed on record the copy of order dated 27.10.2023 passed by learned Additional Sessions Judge Hissar in case CIS No. SC/61/2020 titled as State of Haryana vs. Sumit etc. to substantiate his submissions. He submits that the petitioner was found innocent during investigation and was kept in column No.2 at the time of presentation of challan, however he was later on summoned by the learned trial Court on application under Section 319

Cr.P.C moved by the prosecution. He submits that petitioner has already appeared in the trial Court and facing the trial, as such he prays for interim order dated 11.09.2023 be confirmed and appeal be accepted.

3. Learned State counsel assisted by learned counsel for respondent No.2 on the other hand submit that there are specific allegations against the petitioner of having caused injuries on the person of the complainant and has rightly been summoned by learned trial Court to face the trial on application under Section 319 Cr.P.C. They have not disputed the fact that the petitioner had already joined the investigation in the trial Court and has been granted concession of interim bail.

4. Heard.

5 After considering the respective submissions it transpires that present FIR has been registered at the instance of Sumeet stating that on 02.11.2019 he along with Amit were attending the marriage function of uncle Rajesh and everybody was dancing, one Gurmeet asked the DJ to play a particular song to which the complainant objected and heated exchange took place. As per the complainant, around midnight, he along with Amit were returning home then Gurmeet along with Vikas and Sumit stopped and started giving beatings and Vikas gave a wooden plank hit on the head of Amit and gave beatings on his leg besides fist blow and the complainant ran away from the spot. After calling family members, shifted the injured to the hospital.

6. During the course of investigation, as is evident from the challan submitted by the police as (Annexure P-2) petitioner Gurmeet was

declared as innocent by the police and was not challaned. It is, however on the application under Section 319 Cr.P.C. having been moved by the prosecution in the trial Court to summon and face trial. Appellant applied for grant of anticipatory bail which however was dismissed by learned Additional Sessions Judge Hissarvide impugned order dated 20.07.2023 and aggrieved by the same the present appeal has been preferred.

7. During the course of the proceedings following orders was passed on 11.09.2023 :-

- “1. *Heard.*
2. *By way of application i.e. CRM-37798-2023 filed under Section 482 Cr.P.C., the complainant namely Sumit son of Shamsher Singh, has been ordered to be impleaded as respondent No.2.*
3. *Let notice of motion be issued to respondent No.2 for 27.09.2023.*
4. *It is, inter alia, contended by learned counsel for the petitioner that in the present case, the petitioner was originally named in the FIR but after investigation, he was found innocent and challan was not presented against him. Learned counsel for the petitioner further submits that the petitioner has been summoned to face trial as an additional accused under Section 319 Cr.P.C. He submitted that as per the version given by the complainant, accused Vikas has given wooden plank blow on his head followed by rod blow by the present petitioner on his head whereas according to the medico-legal report, only one injury is there at the given place. He further submitted that the challan has already been presented in Court and custodial interrogation of the petitioner is not required and he is ready to face trial.*

5. *Learned State counsel has not controverted the fact that the petitioner had been exonerated during investigation and further the fact that as per the medico-legal report, there is only one injury on the head of the injured, which is attributed to co-accused Vikas.*

6. *In the meanwhile, the petitioner is directed to appear in the trial Court on or before 15.09.2023, the date already fixed in the trial Court and in the event of the arrest of the petitioner, he shall be released on interim bail on his furnishing personal/surety bonds to the satisfaction of the concerned Court subject to conditions envisaged under Section 438(2) Cr.P.C.*

7. *List on 27.09.2023.”*

8. In compliance there to, it is submitted by learned counsel for the petitioner that the petitioner has already joined the proceedings in the learned trial Court and furnished bail bonds and has also placed on record copy of order dated 27.10.2023 to substantiate his submissions. This fact is not controverted by the learned counsel for the State as well as learned counsel appearing on behalf of respondent No.2-complainant.

9. Considering the above facts and circumstances, since the petitioner had already joined proceedings of trial by appearing in learned trial Court in compliance of order dated 11.09.2023 passed by this Court, moreover criminal liability, if any would only be determined after the conclusion of trial, which may take sufficient long time and no purpose would be served by sending appellant to custody, at this stage when the police has already presented the challan in the case wherein appellant had found to be innocent, therefore without commenting on the merits of the

case the instant appeal is allowed and interim bail granted to the appellant vide order dated 11.09.2023 is hereby confirmed.

10. The Appeal stands allowed.
11. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

22.11.2023

Gyan	i)	Whether speaking/reasoned?	Yes/No
	ii)	Whether reportable?	Yes/No