

CRM-M-46771-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

238

CRM-M-46771-2023

Date of decision: 16.10.2023

Desh Raj

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Sahil Kumar, Advocate for the petitioner.

Mr. Karan Garg, AAG Haryana.

ARUN MONGA, J. (Oral)

Following the denial of bail by learned trial court, the petitioner is now before this court seeking his release as an undertrial in a case with FIR No. 186 dated June 15, 2020, registered under Sections 323, 302, 147 and 148 read with Section 149 of the Indian Penal Code, 1860 (for short 'IPC') at the Sadar Police Station in Sirsa.

2. According to the prosecution's account, on June 14, 2020, around 06:00 pm, the complainant, Chameli, alleged that her nephew was in a romantic relationship with the daughter of Naresh Kumar. As a result, co-accused Sanjay held a grudge against her brother-in-law, Binder Singh. Subsequently, an altercation occurred, during which Sanjay Kumar (the brother of Indro Devi) and 10-15 other individuals, including the petitioner, restrained Chameli's son, Parveen (now deceased), while co-accused Suraj struck him with an iron rod on his neck. Binder Singh, the brother-in-law, attempted to intervene but was also assaulted and injured. When the injured party raised an alarm, all the accused fled the scene on their motorcycles, carrying their respective weapons. Parveen, who was injured, was taken to Government Hospital, Sirsa, where he ultimately succumbed to his injuries. Consequently, an FIR was registered based on Chameli's statement.

The petitioner, Desh Raj, was taken into custody on June 15, 2020, and has remained incarcerated since.

3. Firstly, the learned counsel for the petitioner argues that the petitioner's role is similar to that of co-accused Govind Kumar, who had already been granted bail by a co-ordinate Bench of this Court through an order dated August 07, 2023, in CRM-M-52502-2022, as contained in Annexure P-3. Therefore, based on the principle of parity alone, the petitioner should be granted bail during the trial's pendency.

3.1. On the merits, learned counsel for the petitioner contends that the only allegation against the petitioner is that he restrained the deceased and administered fist and slap blows. The fatal injury has been attributed to co-accused Suraj.

3.2. Furthermore, it is submitted that the FIR was registered based on a concocted version provided by the complainant. The petitioner is neither named in the FIR nor connected with the alleged offence. The petitioner is not involved in any other case.

3.3. The petitioner's counsel also argues that there is no need for further custodial interrogation of the petitioner, as there is nothing left to be recovered from him. Moreover, there is no indication that the petitioner would tamper with evidence or influence prosecution witnesses.

3.4. He further submits that the petitioner has been in custody since June 15, 2020, and the challan has already been presented. The conclusion of the trial will take a long time; thus, keeping the petitioner behind bars would not serve any useful purpose.

4. On the contrary, learned State counsel, on instructions from HC Sanjeet, strenuously opposes the petition, expressing concerns about the possibility of the petitioner fleeing from trial proceedings if granted bail. Also argues that the

petitioner has committed a serious offence. On a Courtquery, he does not controvert the grant of bail to the co-accused and that petitioner has no criminal antecedents.

5. I have heard the rival arguments and reviewed the case file.

6. In response to a query from the Court, it transpires that the investigation against the petitioner has been completed, and charges were framed on February 03, 2021. At this stage, the allegations against the petitioner are subject to trial. Of the twenty seven prosecution witnesses, two have been examined thus far. The trial's progress has been slow, and it is anticipated to take a considerable amount of time. Bail serves the purpose of allowing an accused to remain free until their guilt or innocence is determined. In contrast, the petitioner has been in detention since June 15, 2020, for more than 03 years and 04 months.

7. The petitioner's continued preventive custody is based on an unsubstantiated suspicion that he might tamper with evidence or influence witnesses.

8. Petitioner is stated to be 30-year old person and having a fixed abode and clean antecedents, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.

9. Co-accused, Govind Kumar, has already been granted the concession of bail by this Court. I see no reason as to why petitioner should not be met with similar treatment.

10. Considering the overall scenario, without commenting on merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep petitioner in further preventive custody.

11. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court,

CRM-M-46771-2023

where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

12. In case, petitioner is found involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.

13. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits the case as the same are for the limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.

14. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

October 16, 2023
Ajay

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