

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-49265-2023
DECIDED ON: 30.10.2023

SAJJAN SINGH
.....PETITIONER

VERSUS

STATE OF HARYANA
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sanpreet Sandhu, Advocate
for the petitioner.

Mr. Sandeep Singh Mann, Addl. A.G., Haryana.

Mr. Rahul Deswal, Advocate
for respondent No.2.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked for the third time under Section 439 Cr.P.C., for grant of regular bail to the petitioner in case FIR No.145, dated 03.05.2021, under Sections 148, 149, 323, 324, 506 IPC, 1860 (Sections 302, 120-B, 195-A, 34 IPC added later on), registered at Police Station Nissing, District Karnal, Haryana.
2. Learned counsel for the petitioner contends that the petitioner was arrayed as an accused in the instant case on the basis of disclosure statement of co-accused Sandeep Singh and the role attributed to the petitioner is with danda. He categorically urges that the petitioner has not inflicted any injury whatsoever and very rightly was not named in the FIR itself at the first instance. He further contends that subsequently merely on the basis of disclosure statement, he was arrested in the instant case and investigation stands conducted. He further refers to medico legal report dated 03.05.2021 (Annexure P-5) to raise doubt in the prosecution story,

the right hand hypothenar region approx 5.3 cm irregular margins, second injury a laceration wound over the right leg below knee joint approx 4.3 cm irregular margins and third injury a laceration wound over the left leg approx 3.3 cm irregular margins, wherein active bleeding was pointed out. He has also argued that injury No.1 has been marked as sharp, whereas 2nd and 3rd injury is stated to be with blunt weapons but none of the injury was assessed in the MLR to be grievous or dangerous. He has drawn attention of this Court to postmortem report dated 03.05.2021 (Annexure P-8), which was conducted at 3:50 pm, as against the MLR at 8:32 a.m., on the same date, whereby 19 injuries have been shown and interestingly injuries No.2, 3 and 4 have been shown as one over the right side of head just above right eyebrow, one over left side of head just above left ear and another one over and above the right eyebrow.

3. On the other hand, learned State counsel has produced the custody certificate of the petitioner, which is taken on record, copy whereof has been supplied to the learned counsel for the petitioner and vehemently contends that the petitioner is not entitled the concession of regular bail as he has played active role in commissioning of offence, as is evident from CCTV footage, who was seen accompanying the main accused with danda and given injuries on the head of the father of the complainant.

4. Learned counsel for respondent No.2 has strenuously argued that the case was adjourned on previous date to await the decision in SLP preferred by other co-accused and today also it should have been adjourned since the said SLP is pending for adjudication before the Apex Court, wherein the next date of hearing is 24.11.2023.

5. This Court is not inclined to entertain such a plea to await the decision of Hon'ble Supreme Court, wherein the material and the role of those co-accused is

considered and examined by this Court primarily and exclusively considering his role in the involvement and commissioning of the offence.

6. On a query put by this Court, no injury could be mentioned from the perusal of list of injuries mentioned in the postmortem report (Annexure P-8), though there are injuries No.2, 3 and 4 i.e., one over the right side of head just above right eyebrow, one over left side of head just above left ear and another one over and above the right eyebrow meaning thereby two injuries have been shown one place over and above the right eyebrow i.e., two injuries above the eyebrow only and cannot in any manner termed to be injury on head. Even otherwise specific role of the petitioner has not been pointed out by the prosecution in any of the documents before this Court and even today learned State counsel could not point out such injury.

7. Interestingly injuries No.2 and 3, which have been shown in the postmortem report on the forehead whereas on the MLR of even date of District Civil Hospital conducted at 8:32 a.m., shows the injuries No.2 and 3 over the right leg below knee joint and over the right leg approximately 3.3 cm regular margins with active bleeding i.e., below knee, which raises serious doubt even with regard to the injuries present on the body of the deceased.

8. Perusal of custody certificate also makes it abundantly clear that the petitioner has suffered incarceration for a period of 2 years, 5 months and 2 days and admittedly investigation has been complete and nothing is to be recovered from the possession of the petitioner, charges have already been framed on 14.10.2021 and the trial is at initial stage, out of 47 prosecution witnesses, only one has been examined so far after a lapse of approximately two years.

9. Looking into the totality of facts and the discussions made hereinabove, this Court is of the firm view that the trial is likely to take long time,

Therefore, no useful purpose would be served by keeping the petitioner behind the

bars for uncertain period, wherein ‘bail is a rule and jail is an exception’ and it would also violate the principle of right to speedy trial and expeditious disposal under Article 21 of Constitution of India, as has been time and again discussed by this Court, while relying the judgment of the Apex Court passed in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131.***

10. In light of the above, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of trial Court/Duty Magistrate, concerned.

11. The present petition is, hereby, allowed.

12. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

30.10.2023

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>