

217 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-53765-2022
Date of Decision: 22.03.2023

Balraj @ Bholu

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

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

Mr. Amrik Narwal, DAG, Haryana.

HARSH BUNGER J. (ORAL)

Present petition is filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.4 dated 04.01.2022 (Annexure P-1), under Sections 307, 323, 324 and 452 of the Indian Penal Code, registered at Police Station Panipat Sadar, District Panipat, Haryana.

Succinctly, the aforesaid FIR (Annexure P-1) was registered on the statement of complainant, namely Raj Kumar s/o Shish Ram, who is the elder brother of grandfather of the petitioner, wherein he stated that on 03.01.2022 at around 11:00 A.M., when he came to his house for taking meal, he heard the voice of his elder son's wife, namely Kiran. When the complainant asked as to who was in the room then petitioner came out of the room and when complainant held the hand of petitioner then the petitioner firstly gave a *danda* blow to the complainant, which was escaped

by him, however it hit the daughter-in-law of complainant, and thereafter, the petitioner gave a knife injury to the complainant, whereupon the complainant fell unconscious and was admitted to the Cygnus Maharaja Agarsain Hospital, Panipat, where he was examined and it was mentioned in his Medico Legal Report dated 03.01.2022 (Annexure P-2) that *wound of size around 2 cm. noted over anterior left chest wall underlying ribs was exposed*; the injury was declared to be dangerous to life by the doctor.

Learned counsel for the petitioner, *inter alia*, contends that the petitioner is a young boy of 18/19 years of age and is having only one kidney and in order to substantiate the same, a copy of ultrasound report dated 30.07.2018 of petitioner is attached as Annexure P-5 with the instant petition. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present FIR (Annexure P-1) on the statement of complainant, namely Raj Kumar s/o Shish Ram. It is submitted that the complainant is the elder brother of grandfather of the petitioner and both the families reside separately at the same location; the petitioner usually visits complainant's house without any obstruction. It is submitted that even if the allegations in the FIR are taken to be true then also there was no intention on the part of petitioner to cause any injury to the complainant, thus, Section 307 of the Indian Penal Code is not attracted in the present case. It is stated that falsity of FIR is borne out from the discharge summary dated 03.01.2022 (Annexure P-3) of the complainant issued by the same hospital, wherein it is recorded that there was no history of either loss of consciousness or lucid interval or any ear, nose or throat bleeding. Learned counsel further states that it was stated by Dr. Kumar Sonal, Surgeon, Maharaja Agarsain Hospital, Panipat, who had examined the complainant,

in his cross-examination dated 03.10.2022 (Annexure P-4) that at the time of admission, the complainant was speaking properly and his blood pressure and pulse rate were normal in ordinary course of nature. It is stated that the application for grant of regular bail moved by the petitioner before the Court of Additional Sessions Judge, Panipat, was wrongly declined vide order dated 11.10.2022 (Annexure P-7). It is submitted by learned counsel for the petitioner that the total custody of petitioner is one year, two months and nine days, as on 21.03.2023. It is further submitted that the investigation of case is complete and challan has already been submitted on 08.03.2022 and even charges have been framed on 04.04.2022. It is stated that only five, out of the total fourteen prosecution witnesses, have been examined by now and the trial is likely to take some time in conclusion. Learned counsel submits that the complainant and witness-Kiran have already been examined in this case and they have not supported the prosecution version. A copy of statements of complainant and witness-Kiran is handed over by learned counsel for the petitioner in Court today, which is taken on record, subject to all just exceptions. Learned counsel submits that the petitioner is ready to abide by all the conditions as may be imposed by this Court or by the trial Court, accordingly prayer for grant of regular bail is made.

Custody Certificate dated 21.03.2023 of the petitioner is filed by learned State counsel in Court today, which is taken on record, subject to all just exceptions.

Learned State counsel opposes the plea of petitioner for grant of regular bail on the ground of seriousness of the offences and states that one more case bearing FIR No.114/2021, under Sections 148, 149, 323, 341

and 506 of the Indian Penal Code, registered at Police Station Sadar Panipat, is also pending against the petitioner, however, he is on bail in the said case. Learned State counsel further fairly concedes the fact that as per custody certificate, the total custody of petitioner is one year, two months and nine days, as on 21.03.2023. It is also not disputed that the investigation in this case is complete, challan stands submitted, charges have been framed and trial is going on and complainant as well as witness-Kiran has also been examined.

I have heard learned counsel for the parties and perused the paper book as well as the custody certificate of petitioner handed over by learned State counsel in Court today.

As per custody certificate dated 21.03.2023, the petitioner has already undergone one year, two months and nine days, as on 21.03.2023. Investigation in this case is complete, challan stands presented on 08.03.2022 and even charges have been framed on 04.04.2022. Out of the total fourteen prosecution witnesses, five prosecution witnesses have been examined by now. Complainant and witness-Kiran have also been examined in this case. Hence, trial in the case is likely to take long time and no useful purpose would be served by keeping the petitioner behind bars for an indefinite period of time.

Keeping in view the aforementioned circumstances, the instant petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of

Officer about his address at which he intends to reside during the pendency of case/trial and any change in the address shall be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He would also furnish his undertaking to the effect that he will not indulge in any illegal activity.

In addition, the petitioner (or anyone on his behalf) shall prepare a Fixed Deposit Receipt (F.D.R.) in the sum of Rs.50,000/- and submit the same with the trial Court. The same would be liable to be forfeited as per law in case the petitioner remains absent from trial without any sufficient cause.

Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

The petition is accordingly disposed of.

22.03.2023*Apurva***(HARSH BUNGER)
JUDGE**

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No