

222

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-56573-2022

Date of decision :30.01.2023

RAJESH @ BOBAL

... Petitioner(s)

Versus

STATE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Vikas Kumar, Advocate
for the petitioner(s).

Mr. Neeraj Poswal, Asst. A.G., Haryana.

JASJIT SINGH BEDI, J. (ORAL)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.407 dated 17.07.2021 registered under Sections 148, 149, 323 and 324 of IPC (Section 326 of IPC added later on) at Police Station Narnaund, District Hansi.

2. The brief facts of the case are that on 16.07.2021, a telephonic message was received at Police Station Narnaund that Smt. Bimla wife of Ramniwas had been injured and was admitted at the Community Health Centre, Narnaund after which she had been referred to General Hospital, Hisar. Thereafter, further information was received regarding her admission at MAMC, Agroha. The police party was despatched and the statement of Bimla was recorded to the effect that on 16.07.2021, she along with her son Sonu were going towards the fields

on their motorcycles. After harvesting, while they were going towards Barwala on their motorcycle then Satpal was standing outside his house. On seeing them, Satpal threw a *lathi* towards their motorcycle. To avoid the attack, they slowed down their motorcycle and Satpal and Rajesh @ Bobal (petitioner) came to the front. Rajesh @ Bobal gave a *Kulhadi* (axe blow) from the blunt side on her hand. Then Satpal and his son Sonu came to the spot. Sonu attacked her son Sonu with a knife. Then Satyawar, Satpal, Rajesh @ Bobal, Sonu, Vikas, Kala son of Satpal and Khelo wife of Satpal along with the wife of Satyawar threw bricks at them. The wife of Rajesh @ Bobal gave her (complainant) leg and fist blows. Thereafter, all their residents came out, gathered at the spot and rescued them. The cause of enmity was that two years ago Rajesh son of her brother-in-law had set fire to their (complainant party) wheat field and a complaint regarding the same was made to the Police authorities.

Based on the aforementioned allegations, the present FIR came to be registered.

During the course of investigation a cross-case bearing FIR No.402 dated 16.07.2022 registered under Sections 148, 149, 323, 324, 325, 506 IPC was also found to be registered at Police Station Narnaud against the complainant-Bimla and her family members.

The injury Nos.1 and 2 on the person of Bimla were found to be simple in nature.

On verification it was found that the complainant Bimla and her family members against whom an FIR No.402 dated 16.07.2022 had been registered at Police Station Narnaund and self-inflicted injuries

upon themselves. Because of the same, a cancellation report was prepared by the S.H.O. Police Station Narnaund. However, the same was not accepted by the senior officials and a further investigation was ordered. Based on the evidence collected during further investigation, it was found that the complainant party was not at the place of the occurrence at the time of incident. On 09.02.2022, Section 341 IPC was invoked.

Thereafter, on the directions of the S.P. Hansi, further investigation was conducted by S.I. Bal Krishan. Opinion of the Medical Officer of CHC Narnaund was sought who opined that injury No.1 in the MLR was grievous in nature and caused by a sharp weapon and injury No.2 was a simple and blunt injury.

On the basis of the opinion of the Medical Officer, Section 326 IPC was invoked in this case since the injury suffered by Bimla was found to be grievous.

3. The learned counsel for the petitioner contends that it is a case of version and cross-version. Initially, a cancellation report was prepared. Subsequently, the injury attributed to the petitioner is the one attracting Section 326 IPC. He contends that the petitioner was in custody since 19.10.2022. None of the 19 prosecution witnesses had been examined so far and since was a first time, he was entitled to the concession of bail.

4. A status report dated 21.01.2023 by way of an affidavit of Satish Kumar, Deputy Superintendent of Police, Naranund has been filed on behalf of the State by the learned counsel for the State. The

same is taken on record. He contends that the petitioner is allegedly, the main accused. He, however, does not dispute the factual position of the case being of version and cross-version as also the period of custody undergone by the petitioner and the stage of Trial.

5. I have heard the learned counsel for the parties.

6. The veracity of the allegations against the petitioner shall be established during the course of Trial. Admittedly, the petitioner is a first-time offender. None of the 19 prosecution witnesses have been examined so far and the petitioner is stated to be in custody since 19.10.2022. As such, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Rajesh @ Bobal son of Shri Muni Ram is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the case mentioned in this order.

9. If the petitioner or his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this order.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

30.01.2023
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No