

CRM-M-58791-2023
Date of decision: 28.11.2023

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rahul Rana, Advocate for
Mr. Sumit Bairagi, Advocate
for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present petition (second) has been filed under Section 439 Cr.P.C. seeking regular bail in a case bearing FIR No.1041 dated 29.12.2019 under Sections 323/324/307/506/34 of IPC registered at Police Station City Karnal, District Karnal (Haryana) (Annexure P-1).

Brief facts of the case are that on 28.12.2019, after working in a factory, the complainant had gone to his aunt Lakshmi's house at Street No.4, New Bahadur Chand Colony, Karnal. At around 07 O'clock in the evening, there was a sound of fight outside. When he came out of the house, he saw that his acquaintance, Sahil and his friend Deepu, Krishna and present petitioner-Pala, were fighting amongst themselves. When the complainant went there, Krishna held his hands and Pala hit him from behind on the left side of his waist with a screwdriver type sharp tool lying in his hand and hit him several times and thereafter, he ran away from the spot with the weapon. When brother of the

CRM-M-58791-2023

-2-

complainant, Bunty, came to know about the incident, he came at the spot and took the complainant to Kalpana Chawla Medical College, Karnal for treatment, thereafter, he got admitted to Virk Hospital, Karnal and thus, the present FIR was got registered.

Learned counsel for the petitioner *inter alia* contends that the petitioner is behind the bars for more than 03 years and invocation of offence under Section 307 of IPC is debatable as per the allegations contained in the FIR. The petitioner is alleged to have caused injuries on the person of complainant with a screwdriver. The nature and extent of injuries clearly indicates that it is not a case which breaches the threshold of Section 307 of IPC. Co-accused, namely, Krishna has since been granted regular bail by this Court vide order dated 23.03.2022 in CRM-M-50089-2021. The trial of the case is progressing at snail's pace and further incarceration of the petitioner is not justified.

Per contra, the learned State counsel, on instructions from SI Ravinder, opposes the grant of regular bail to the petitioner on the ground that the petitioner is the main accused and he is involved in a heinous crime. He further submits that the knife used by the petitioner while inflicting injuries to the complainant has been recovered in pursuance to the disclosure statement suffered by him.

A two Judge Bench of Hon'ble Supreme Court in '***Satender Kumar Antil v. CBI***' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial

prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

Having heard learned counsel for the parties and perusing the records of the case, it transpires that the petitioner is behind the bars for more than 03 years 08 months and 14 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court on 06.05.2020 and out of ten prosecution witnesses only one has been examined so far. The trial of the case would take long time to conclude.

The foundational concept of the criminal jurisprudence is to ensure speedy trial. The Hon'ble Supreme Court has repeatedly reiterated that right to speedy trial is enshrined in Article 21 of the Constitution of India. Speedy trial would cover investigation, enquiry, trial, appeal, revision and retrial etc. i.e. everything starting with the accusation against the accused and expiring with the final verdict of the last Court.

It has further been held in law that if a person is deprived of his liberty under a procedure which is not reasonable, fair, or just, such deprivation

CRM-M-58791-2023

-4-

would be violative of his fundamental right under Article 21 of the Constitution of India. The procedure so prescribed must ensure speedy trial for determination of the guilt of such person. Some amount of denial of personal liberty cannot be avoided, but if the period of deprivation pending trial becomes excessively long, the fairness guaranteed by Article 21 of the Constitution of India would come into play.

In this regard, reference is being made to the law laid down by the Hon'ble Supreme Court in the context of right to speedy trial under Article 21 of the Constitution of India on the following decision:- **Akhtari Bi Vs. State of M.P., (2001) 4 SCC 355, Surinder Singh Alias Shingara Singh vs. State of Punjab, (2005) SCC (Crl) 1674, P. Ramachandra Rao vs. State of Karnataka, (2002) 4 SCC 578, Babu Singh and others vs. State of U.P., (1978) 1 SCC 579, Takht Singh and others vs. State of M.P., (2001) 10 SCC 463; Special Leave to Appeal (Crl) No.2356 of 2010, Kushal Singh vs. State of U.P. (2JJ.) and Fazal vs. State of Uttar Pradesh, (2012) 5 SCC 752.**

Keeping in view the facts and circumstances of the case, the fact that the petitioner is not involved in any other case and the likelihood of trial being prolonged, the present petition is allowed. Culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Thus, without commenting upon the merits of the case, the petitioner-Pala is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Duty Magistrate/Trial Court.

The present petition seeking regular bail to the petitioner is allowed solely on the ground of long custody already undergone by him and

without commenting on the merits of the case lest it may prejudice the outcome of the case pending before the trial Court.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations made by this Court.

(HARPREET SINGH BRAR)
JUDGE

28.11.2023
Neha

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