

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-11859-2024
Date of Decision: 04.04.2024

Sonu @ Kalu

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Ajay Kumar Dahiya, Advocate
for the petitioner.

Mr. Vishal Malik, DAG, Haryana.

HARSH BUNGER J. (ORAL)

1. Petitioner (Sonu @ Kalu) has filed the instant petition under Section 439 of the Code of Criminal Procedure for grant of regular bail in case bearing FIR No.536 dated 16.10.2023 (Annexure P-1) under Sections 148, 149, 323, 325 and 506 of the Indian Penal Code (Sections 201 and 307 of the Indian Penal Code added subsequently during investigation), registered at Police Station Kharkhoda, District Sonipat.
2. Custody certificate dated 03.04.2024 of the petitioner filed by learned State counsel in Court today is taken on record, subject to all just

exceptions.

3. Briefly, the aforesaid FIR was registered on the complaint of one Devender son of Run Singh, resident of Ward No.2, Kharkhoda, Sonipat, District Sonipat, who stated that he is working as a Salesman in Samsung Company. On 14.10.2023, when he along with his friends, namely Rahul and Sumit, was sitting in a Hotel situated near Madintu Chowk, Kharkhoda, a verbal altercation took place between the complainant and one Kala, who was also sitting in the same Hotel along with his friends, namely Prince and Happy; and thereafter, Prince and Happy also started abusing the complainant, whereupon, the complainant along with his friends left for Pardhan Hotel near Kharkhoda bypass. It was stated by complainant that after 15-20 minutes, aforesaid Prince and Happy along with four other boys came near Pardhan Hotel and took the complainant to the side of Hotel, where Prince and Happy attacked on his head with a brick and rest of the accused persons gave fist and kick blows to the complainant with the intention to kill him. Complainant further stated that later on, two other boys also reached at the spot, out of which one was carrying a wooden stick (*bitta*) in his hand, who attacked the complainant on his right hand finger; and thereafter, the accused persons punched the complainant on his face and chin. It was stated by the complainant that upon hearing the noises, his friends Rahul and Sumit came at the spot and rescued him from the clutches of aforesaid accused persons, whereupon they left the place by threatening the complainant with dire consequences.

4. Learned counsel for the petitioner submits that the petitioner is innocent and he has not been named in the FIR. It is stated that petitioner has been falsely implicated in the instant case on the basis of disclosure statement of co-accused Govind @ Happy. Learned counsel submits that

even as per disclosure statement of the co-accused, petitioner has been attributed an injury on the left hand finger of the complainant, which is declared to be simple in nature.

5. Learned counsel for the petitioner contends that the co-accused of petitioner have already been released on bail, out of which, one co-accused, namely Govind @ Happy, has been granted the concession of regular bail by a co-ordinate Bench of this Court vide order dated 29.02.2024 passed in CRM-M-9889-2024. Copy thereof has been supplied by learned counsel for the petitioner in Court today itself, which is taken on record, subject to all just exceptions.

6. Learned counsel for the petitioner states that petitioner is not involved in any other case and he has undergone actual custody in the instant case for a period of five months and seven days (as on 03.04.2024); investigation in the case is complete, challan stands already presented before the learned trial Court and charges are yet to be framed. Hence, trial in the case is yet to begin and the same is likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind the bars for indefinite period. Learned counsel for the petitioner submits that the petitioner is ready to abide by all the conditions as may be imposed by this Court or by the trial Court. Learned counsel further submits that the petitioner is also willing to furnish security in the form of Fixed Deposit Receipt (F.D.R.) before the concerned Court, so as to ensure his presence before the Court on each and every date of hearing. Accordingly, prayer for grant of regular bail is made.

7. Per contra, learned State counsel has opposed the prayer of petitioner on the ground of gravity and seriousness of the offences. It is submitted that in case the petitioner is released on bail then he might

influence the witnesses and also abscond himself to delay the trial. Accordingly, prayer for dismissal of the present petition has been made.

However, learned State counsel, while referring to the custody certificate, submits that petitioner has undergone actual custody in the instant case for a period of five months and seven days (as on 03.04.2024). It is conceded by learned State counsel that investigation in the case is complete, challan stands already presented and charges are yet to be framed. It is also conceded that name of the petitioner herein surfaces only in the disclosure statement of his co-accused and the co-accused persons have already been granted bail.

8. I have heard learned counsel for the parties and perused the paper book as well as custody certificate of the petitioner.

9. In the instant case, petitioner has undergone actual custody for a period of five months and seven days (as on 03.04.2024). The ingredients of the offence alleged against the petitioner are yet to be proved before the trial Court by prosecution. Co-accused have already been released on bail, out of which, Govind @ Happy has been granted regular bail by a co-ordinate Bench of this Court vide order dated 29.02.2024 passed in CRM-M-9889-2024. Investigation in the case is complete, challan stands presented before the trial Court and charges are yet to be framed. Thus, trial in the case is yet to begin and the same is likely to take some time to conclude.

10. So far as the apprehension expressed by learned State counsel that the witnesses could be influenced by petitioner, suffice it to state that in the event of any such conduct, the prosecution can always approach the competent court for cancellation of bail. Accordingly, it is observed that the

State/Prosecuting Agency/State police shall be at liberty to observe the

behaviour of the petitioner during bail period, and in case it feels that the petitioner is indulging in influencing any of the witnesses or tampering with the prosecution evidence in any manner or otherwise causing interference with the progress of trial, it shall be open for the State/Prosecuting Agency/State police to move the trial Court for cancellation of bail, which shall be decided by the trial Court on merits.

11. In view of the aforementioned facts and circumstances, present 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 petitioner and the petitioner shall inform the concerned Station House 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. The petitioner shall also appear before the concerned Police Station/Station House Officer on every alternate Monday till the conclusion of trial.

12. 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.

13. 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.

- 14. The petition is accordingly disposed of.
- 15. All pending application(s), if any, shall also stand closed.

04.04.2024
Apurva

(HARSH BUNGER)
JUDGE

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