

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

205

CRM-M-14966-2024

Date of Decision :03.04.2024

Kuldeep Singh @ Channi**...Petitioner****Versus****State of Haryana****....Respondent****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Keshav Pratap Singh, Advocate for the petitioner.

Mr. Vibha Tewari, AAG, Haryana.

* * *

Harsimran Singh Sethi, J. (Oral)

Present is the 5th petition filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No.119 dated 29.05.2020 registered under Sections 148, 149, 302, 307, 341 506 and 120-B of the IPC at Police Station Pinjore, District Panchkula.

Learned counsel for the petitioner submits that the petitioner is behind the bars since 01.06.2020 and his custody is for more than three and a half years hence, the petitioner is entitled for the grant of regular bail especially, when the injury which has been attributed to him was on the elbow though, with the *Gandasi*.

Learned State counsel on the other hand submits that the petitioner has inflicted injuries on the deceased and keeping in view the fact that Section 148, 149 and 120-B of the IPC have been invoked and once the petitioner had come with the intention to cause death, the allegations alleged

against the petitioner are serious so as to grant him the benefit of regular bail.

Learned State counsel further submits that there are two other FIRs pending against the petitioner relating to the violation of provisions of IPC as well as of Prison Act.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

In the present petition, allegations against the petitioner are of causing death to the victim. As per the sections of the IPC, which have been invoked coupled with the evidence on the basis of which the challan has been presented, the same was pre-planned. Not only this, the petitioner was the member of unlawful assembly and it has already come on record that the petitioner has attributed two injuries with the sharp edged weapon upon the victim. Merely the fact that period of custody is more than three and a half years is not sufficient to grant the concession of regular bail to the petitioner by ignoring the other facts, which are also before this Court.

Further, as per the judgment of the Hon'ble Supreme Court in the case of ***Kumer Singh Versus State of Rajasthan & another in Criminal Appeal Nos. 572 and 573 of 2021 decided on 20.07.2021***, role of an individual is not to be seen where Sections 148 & 149 of the IPC have been invoked coupled with Section 302 of the IPC. Relevant portion of the said judgment is as under:-

“The submission on behalf of the accused that the accused were alleged to have been armed with lathis and therefore they were released on bail is concerned, at the outset, it is required to be noted that all the accused are charged for the offences punishable under [Sections 302 and 307](#) read with [Section 149](#) of the IPC. At this stage, the individual role of the accused is not required to be considered when they are alleged to have been the part of the unlawful assembly. There

were 26 injuries found on the dead body of the deceased and 11 injuries on the injured Vikram Singh by blunt and sharp weapons. Therefore, merely because they were armed with lathis cannot be a ground to release them on bail, in the facts and circumstances of the case, more particularly when they are charged for the offences punishable under Sections 302 and 307 read with Section 149 of the IPC as well as Sections 147 and 148 of the IPC.”

Not only this, the petitioner is also involved in other criminal cases for violation of provisions of the IPC. Further, the petitioner has violated the prison's rules while in prison. Hence, it can be safely presumed that in case, the petitioner is enlarged on bail, he will not adhere to the rules of law as the petitioner is a habitual offender.

Qua the argument of the learned counsel for the petitioner that the other co-accused have been granted the concession of regular bail, it may be noticed that grant of benefit of regular bail to the other co-accused will not give right to the petitioner to claim the bail. Nothing has been brought on record that the petitioner is similarly situated to the other co-accused, who have been granted the concession of regular bail and, hence, the prayer of the petitioner that he should be granted concession of regular bail as granted to the other co-accused, cannot be accepted.

Learned counsel for the petitioner submits that the present case is a case of version and cross-version.

Once, while submitting the challan due evidence has been brought on record and charges have been framed against the petitioner under Section 302 with other sections of the IPC including Sections 120-B, 148 and 149 of the IPC, the same cannot be ignored so as to hold that as of now, it is a case of version and cross-version.

Keeping in view the facts and circumstances recorded

hereinbefore, no ground to allow the petitioner benefit of regular bail is made out and the present petition is accordingly dismissed.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

April 03, 2024

aarti

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned :

Whether reportable :

Yes/No

Yes/No