



CRM-M-16374-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(223)

CRM-M-16374-2024 (O & M)
Date of decision: 21.05.2024

Deepak Petitioner

V/s

State of Haryana ...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Ashish Grewal, Advocate,
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, 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 to the petitioner in case FIR No.571 dated 23.11.2023 under Sections 148, 149, 323, 452 and 506 IPC (Sections 325 and 379-B IPC added later on) registered at Police Station Sadar Yamuna Nagar, District Yamuna Nagar.

2. The present FIR came to be registered at the instance of Jara Kinnar and reads as under:-

“Statement of Jara Kinnar resident of Hijdon Wali Gali Tapri Road Teirth Nagar Police Station Sadar Yamuna Nagar District Yamuna Nagar and aged 30 years Mob. No. 8816076056. Stated that I am a resident of the above address and I do the work of asking for congratulations etc. On 22/11/2023, I was lying in my room. Manish Kinnar also lives in a room of the same house. At about 5.30 in the evening, she started telling Manish and 8/9 boys sitting with him, whose names she did not



::2::

know, one of whom was Deepak son of Tony, resident of Tirth Nagar, that they should not consume drugs here and should leave from here. After saying this I came to my room. I and Tannu Kinnar was lying in the room. Then at around 6.00 PM, around 8/10 boys came carrying sticks, iron rods, etc. in their hands. As soon as they arrived, they attacked me and my companion Tannu fatally and after closing the gate, they beat us with sticks, iron rods and dadas. In which they hit me on my left arm, legs, chest, mouth and took out my money bag containing about Rs. 1 lakh fifty thousand from the bed and my mobile REALME which had SIM NO. 6393263585 and they also took away my friend Tannu's kit which contained around Rs.60 thousand and documents. Those who assaulted us are the boys sent by Manish to assault us, one of them was Deepak son of Tony resident of Tirth, Rinku son of Raju resident of Tirth Nagar, Aman son of Raju resident of Tirth Nagar. Don't know the rest of the names. Whom I can recognize when I see them. All these boys beat me and my friend Tannu without any reason and took away our money and belongings. While leaving, they all threaten to kill us. Please take legal action against them. I have got written my statement to you in Civil Hospital Yamuna Nagar, heard, I have understood it is right. SD Jara”.

3. During the course of the investigation, Manisha was arrested and got recovered Rs.40,000/-. The X-ray report of the injured Zara @ Jara was collected and she was found to have suffered a fracture whereupon Section 325 IPC was added in the case.

The petitioner and co-accused/Aman @ Devi Lal were arrested. The petitioner got recovered Rs.7,000/- and an iron pipe used in the commission of the offence whereas Aman @ Devi Lal got recovered Rs.4,000/- and a wooden binda.



CRM-M-16374-2024

::3::

Accused-Rinku was arrested on 16.03.2024 and got recovered Rs.1,000/-.

The report under Section 173(2) Cr.P.C. was submitted against the petitioner, Manisha and Aman @ Devi Lal.

4. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. There was no specific attribution to the petitioner. Though, the injuries suffered by the complainant are simple in nature, Section 325 IPC had wrongly been invoked. Two co-accused, namely, Manisha and Aman had been granted the concession of regular bail. As the petitioner was in custody since 29.11.2023 but none of the 09 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and he was entitled to the concession of bail.

5. The learned counsel for the State, on the other hand, has filed a reply dated 20.05.2024 which is taken on record. While referring to the said reply, he contends that the petitioner alongwith his co-accused assaulted the complainant and therefore, the nature of the allegations levelled against him did not entitle him to the concession as prayed for. In addition, the petitioner was a habitual offender with multiple cases pending against him. Therefore, there was every likelihood that the petitioner would abscond from the Trial, in case, he is granted the concession of bail. He, however, concedes that the petitioner is in custody since 29.11.2023 but none of the 09 prosecution witnesses had been examined so far and that two co-accused had been granted the concession of bail.

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



CRM-M-16374-2024

::4::

7. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is in custody since 29.11.2023 but none of the 09 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. Though, the petitioner is a habitual offender, but two of his co-accused have been granted the concession of bail. Therefore, the petitioner is also entitled to the similar concession.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Deepak is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any other crime/case except those mentioned in the State reply dated 20.05.2024.

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.

(JASJIT SINGH BEDI)
JUDGE

May 21, 2024
sukhpreet

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