

CRM-M-19463-2023

Date of Decision: 24.01.2024

Palwinder Singh

...Petitioner

vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.ShekhawatPresent : Mr. Hitesh Chopra, Advocate
for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the second petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.47 dated 12.03.2020 registered under Sections 302, 307, 323, 506, 34 of IPC, at Police Station City Batala.

2. Learned counsel for the petitioner contends that the earlier bail petition was withdrawn by the petitioner on 07.12.2021. However, after withdrawal of the earlier petition, the trial has not progressed much; consequently, the second petition has been filed with a prayer to grant the concession of regular bail as the petitioner is in custody for the last about 3 years and 10 months.

3. As per case of the prosecution, the petitioner and his brother Sajjan Singh had come on a tractor trolley to unload the wood in a saw mill. However, all of a sudden, there was a fight between the petitioners' side and Rajesh

Kumar, son of the complainant. Further, the petitioner allegedly picked up a wooden log and had hit on the head of Rajesh Kumar. As per case of the prosecution, co-accused Sajjan Singh also gave blows with stick on the right leg of the injured.

4. Learned counsel further submits that during the course of investigation, Sajjan Singh has been found to be innocent. The petitioner was arrested in the present case on 15.03.2020 and is in custody for the last about 3 years and 10 months. He further contends that only 7 witnesses, out of total 19 witnesses have been examined, so far and the custody of the petitioner will not serve any meaningful purpose. Learned counsel for the petitioner has relied upon the judgments passed by the Hon'ble Supreme Court in the matter of **“Ranjan Dwivedi Vs. CBI, through the Director General, 2012(8) SCC 495; 2012 (4) RCR (Criminal) 880”** and **Gudikanti Narasimhulu and others v. Public Prosecutor, AIR 1978 SC 429.**

5. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner is the main accused and does not deserve the concession of bail by this Court.

6. I have heard the learned counsel for the parties and perused the record.

7. From the perusal of the record, it is clear that the petitioner is continuing in custody for the last about 3 years and 10 months in the present case. The material witnesses have already been examined by the prosecution and the petitioner may not be in a position to influence the witnesses of the

prosecution. Apart from that, the fight had taken place at the spur of the moment and the petitioner is not involved in any other criminal case.

8. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned, subject to the following conditions:-

- (i) *The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.*
- (ii) *The petitioner shall remain present before the Court on the dates fixed for hearing of the case.*
- (iii) *The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.*
- (iv) *The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*
- (v) *The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.*
- (vi) *In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a petition for cancellation of bail granted to him.*
- (vii) *The concerned Court may insist on two heavy local surties*

and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioner.

24.01.2024
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(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No