

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

229

CRM-M-18873-2024

Date of decision: 24.04.2024

SUSHIL KUMAR

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Ms. R.K. Thind, Advocate with
Mr. Bikramjit Singh, Advocate
for the petitioner.

Mr. Abhinash Jain, DAG, Haryana.

KULDEEP TIWARI. J.(Oral)

1. Through the instant petition, the petitioner craves for indulgence of this Court for his being enlarged on regular bail, in case FIR No.0380 dated 02.09.2023, under Sections 148, 149, 323, 341 and 506 of IPC (Sections 307 and 325 of IPC added later on), registered at Police Station Ellenabad, District Sirsa.

2. The petitioner was arrested in the present case on dated 03.11.2023. The prosecution story as culled out from the order dated 06.04.2024, passed by the learned Additional Sessions Judge, Sirsa, while declining the regular bail application of the petitioner, which reads as under:-

“2. The brief facts of the case of prosecution are that the present case was registered on the statement of Sanjay Kumar son of Arjun Dass, resident of Talwara Khurd, at present Ward No.7, Ellenabad to the effect that he is running a shop under the name and style of Sanjay Mehta Music Centre situated at Sirsa Road, Ellenabad and his elder brother Dharambir @ Vicky is also running a shop under the name and style of Mehta Music near Rest House. Vikas Kumar @ Monu has been working in the shop of

complainant and he commute on his motorcycle from Village Talwara Khurd on daily basis. His brother Dharambir @ Vicky was sick for the last many days and was admitted in Dera Sacha Sauda Hospital, Sirsa. On 29.08.2023, at about 7:30-8:00 pm, complainant and Vikas Kumar @ Monu were going towards the house of Dharambir @ Vicky, on their motorcycles, to hand over the keys of shop of Dharambir @ Vicky, when they covered some distance from Shri Ram School, at that time, suddenly, seven boys came on three motorcycles and intercepted the motorcycle of Vikas Kumar @ Monu and they were armed with gandasi, axe and kapa etc. One of them was Sonu son of Mangat Ram, resident of Talwara Khurd, who was armed with an axe Rest of the boys were known to Vikas Kumar @ Monu, who was also with him. All those persons attacked upon Vikas Kumar @ Monu with sharp edged weapons. They were shouting to kill him. On seeing the above-said incident, complainant fled from the spot alongwith his motorcycle as he got frightened. Thereafter, complainant informed his uncle Nanak Chand son of Satna Ram about the incident, on which, complainant and his uncle reached at the spot and they came to know that Vikas Kumar @ Monu has been shifted to Government Hospital, Ellenabad by the persons of that locality. Thereafter, complainant and his uncle visited Government Hospital, Ellenabad where his uncle Rajender and Manohar sons of Satna Ram also reached. The cousin of complainant namely Vikas Kumar @ Monu had sustained injuries through sharp edged weapons. The doctor concerned had given first aid treatment to Vikas Kumar @ Monu and then referred him to Government Hospital, Sirsa, from where he was referred to higher centre. However, he was got admitted in City Health Care Centre, Sirsa. He further stated that Sonu son of Mangat Ram alongwith 6 other unknown persons caused injuries to Vikas Kumar @ Monu with the help of sharp edged weapons, without any reason, therefore, appropriate strict legal action be taken against them.”

3. Learned counsel for the petitioner submits that the petitioner has not been named in the FIR, and there is considerable delay of 04 days in registration of the present FIR, and no plausible reason is coming forth for the said delay, rather the

complainant submits that, after the occurrence, he went to the house of her sister, on account of Rakhi festival. Learned counsel for the petitioner further submits that the name of the petitioner has surfaced only on the basis of disclosure statement of the co-accused, which has no relevancy at all. Learned counsel for the petitioner also submits that the petitioner has suffered incarceration of more than 05 months, as on today. Learned counsel for the petitioner further submits that the petitioner is not involved in any other criminal case. Learned counsel for the petitioner further submits that two other co-accused namely Aarzoo @ Yuvi @ Arju @ UV & Karan, have been granted the relief of regular bail, by this Court in CRM-M-11850-2024, vide order dated 12.03.2024, and in CRM-M-12464-2024, vide order dated 15.03.2024, respectively.

4. Notice of motion.

5. Mr.Abhinash Jain, DAG, Haryana, accepts notice on behalf of respondent-State.

6. On the other hand learned State counsel has opposed the grant of regular bail to the petitioner, on the ground that as per statement of the victim i.e. Vikas Kumar @ Monu, petitioner has caused injuries using a sharp edged weapon, i.e. gandasi, on his hands and feet, which are grievous injuries. He has placed on record a custody certificate *qua* the petitioner, which is taken on record. A perusal of the same reveals that the petitioner has suffered incarceration of 5 months and 21 days, as on today.

7. Learned State counsel, on instructions imparted to him from the official respondent, submits that in the present case the final report has already been filed, and as many as 7 persons have been arrayed as accused, and the charges by the learned trial Court concerned, have also been framed way back on

dated 30.01.2024, and the prosecution has cited total 21 prosecution witnesses, and none has been examined so far.

8. This Court has heard the learned counsel for all the parties concerned, and has gone through the entire case file.

9. At this stage, without commenting upon the merits of the present case, and considering the fact that the main injury which was declared grievous in nature, is not attributed to the present petitioner, and the petitioner has suffered incarceration of 05 months and 21 days, as on today, and the trial is yet to commence, as out of the total 21 prosecution witnesses, none have been examined so far, this Court deems it fit and appropriate to grant the concession of regular bail to the petitioner. Therefore, without commenting upon the merits and circumstances of the present case, the present petition is **allowed**. The petitioner is ordered to be released on bail on furnishing of bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

10. However, it is clarified that if in future, the petitioner is found indulging in commission of similar offences, as are involved herein, the respondent-State shall be at liberty to make an appropriate application seeking cancellation of regular bail, as granted by this Court. Moreover, anything observed here-in-above shall have no effect on the merits of the trial and is meant for deciding the present petition only.

24.04.2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No