

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

215 CRM-M-20479-2024
Date of decision: 30.04.2024

Akshay Kumar
... Petitioner

VS.

State of Haryana
... Respondent

CORAM: HON’BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Aakash Juneja, Advocate for the petitioner
(Hybrid hearing)

Mr. GS Dhillon, AAG Haryana

Sandeep Moudgil, J.

The petitioner seeks regular bail in case FIR No.536 dated 27.12.2023 under Sections 323/324/506/34 IPC (Section 326 IPC added later on), registered at Police Station Gandhi Nagar, Yamuna Nagar.

Learned counsel for the petitioner contended that as per prosecution story, the petitioner along with co-accused caused grievous injury to the complainant/injured on 22.12.2023, attracting offence under Section 326 IPC upon the petitioner. It is urged that the weapon being a nail-cutter-size knife, is not of the kind that will likely to cause death and therefore no offence under Section 326 is made out against the petitioner besides the complainant/injured having been discharged on the very next day after his admission in the hospital, establishes the fact that the injury, if any, sustained by the injured was simple and not dangerous to life. He claims parity with the co-accused of the petitioner who has already been granted the concession of regular bail by the trial court vide order dated 04.03.2024 (Annexure P3).

Learned State counsel has filed custody certificate dated 28.04.2024 which is taken on record. According to it, the petitioner has undergone 3 months and 29 days of custody since his arrest on 27.12.2023. He opposed the prayer for grant of regular bail on the ground that the petitioner in furtherance of a common intention gave knife blow in the abdomen of the complainant and that the case of the co-accused stands on a different footing than the petitioner. It is averred that challan has been presented on 16.02.2024 but charges have yet not been framed.

Heard learned counsel for the parties and gone through the record.

Taking into consideration the totality of the circumstances particularly the fact that trial in the present case is moving at a snail's pace as is evident from the statement of State counsel that charges have not been framed till date and in that eventuality, it is abundantly clear that it will take certainly long time to conclude the trial and detaining the petitioner behind the bars for an indefinite period would amount to violation of Article 21 of the Constitution of India and is against the principle "Bail is a rule, jail is an exception" as elucidated in the judgement of Apex Court in "***Dataram Singh vs. State of Uttar Pradesh and another***, (2018) 3 SCC 22".

A Division Bench of this High Court in ***Rajender Singh vs. State of Haryana***, 2022(2) R.C.R. (Criminal) 85 has held that a right under Article 21 of the Constitution of India includes right to speedy trial and expeditious disposal which is also in public interest primarily showing concern on a following view point.

(a) the period of remand and pre-conviction detention should be as short as possible. In other words, the accused should not be subjected to unnecessary or unduly long incarceration prior to his conviction;

(b) the worry, anxiety, expense and disturbance to his vocation and peace, resulting from an unduly prolonged investigation, inquiry or trial should be minimal; and
(c) undue delay may well result in impairment of the ability of the accused to defend himself, whether on account of death, disappearance or non-availability of witnesses or otherwise.

Keeping the petitioner inside the jail is clearly violative of speedy trial under Article 21 of the Constitution of India, but the same is likely to take long time being wherein it is at the initial stage after a lapse of considerable time.

Accordingly, the present petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

30.04.2024
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No