

247 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20481-2024
Date of Decision : 30-04-2024

Sandeep KumarPetitioner
Versus
State of UT, ChandigarhRespondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Ferry Sofat, Advocate for the petitioner.

Mr. Manish Bansal, P.P., UT Chandigarh with
Mr. Navjit Singh, Advocate
along with ASI Jaimal Singh.

PANKAJ JAIN, J. (Oral)

1. Prayer is for grant of regular bail in FIR No.205 dated 05.12.2023 registered for offences punishable under Sections 147, 148, 149, 325, 323, 341, 302 and 506 of IPC, 1860 and Sections 25, 54 and 59 of the Arms Act at Police Station Sector 11 of UT, Chandigarh.

2. As per the contents of the FIR, it has been alleged as under:-

“Statement of Ajay S/o Rampal R/o H.No. Jhuggi No. 1882, Sector-25, Chd Age-21 Yr. Stated that I am resident of above mentioned address and is doing private job and on last night dated 3/4/12/2023 morning at around 1:30 AM on my motorcycle bearing No. CH01BV498 Make Sepplendor color silver was going towards my jhuggi Sec-25, Chandigarh on wrong side through university, then at sudden one black coloured vehicle after hitting me fallen me down, at behind of black coloured car, there was also one silver coloured car, which stopped behind that car, from both the cars some boys came out, all were holding wooden rods and iron garari (which falls infront of rod). Among these boys Dharmender of Naya Gaon, Ajay Kalu Sec-25 Chd and Spoty of Dhanas, Sabu of Sec-25 Chd and other boys were along with them. whom I can identify on coming in front of me. Dharminder on my standing hit me with the wooden rod that he was holding on my left leg and Ajay @ Kalu hit me with rod on my right leg and after

getting injury I got fallen down and Sabu hit me with rod on my right arm and spoty hit again and again on my left arm and the boys came along with them hit me with rods and iron garari and hit me with legs/fist blow, due to which I sustained serious injuries on my both legs and arms and I raised hue and cry, despite that they kept on beating me, while going Ajay @ Kalu and his other fellows gave me threat to eliminate me and left the spot on their respective vehicles. Dharminder, Spoty, Ajay @ Kalu, Sabu and his other friends along with other friends gave me injuries by giving me beating with wooden rod, rods and iron garari, strict legal action be taken against them, among them one boy was also carrying pistol with him, whom I can identify on coming present before me.”

3. Counsel for the petitioner has drawn attention of the Court to the evidence recorded by the trial Court while dismissing the bail plea of the petitioner in Para 11 which reads as under:-

“He argued that it is true that deceased Ajay was also facing criminal cases and even proceedings for declaring him proclaimed offender were pending at the time of his death. It is also true that the applicant/accused was not physically present at the spot of occurrence however, the main conspirator/planner is the applicant/accused only. It was argued that though there is no disclosure statement made by the applicant/accused yet the applicant/accused has been named by co-accused Ajay as main conspirator. From the call details records of the mobile phones, the contact of the other accused persons as well as Parvesh Baba with the applicant/accused is established. The applicant/accused is an influential person and may threaten the prosecution witnesses. 3 other accused persons are yet to be arrested, therefore, the concession of bail should not be extended in favour of the applicant/accused.”

4. Mr. Manish Bansal, P.P. for U.T., Chandigarh very fairly admits that he cannot dispute the aforesaid findings and even as per the prosecution also, the petitioner was not physically present at the but vehemently argues that the petitioner is one of the primary conspirators.

On being asked as to what is the incriminating evidence, he submits that there is a disclosure statement of co-accused while in police custody and further submits that brother of the deceased has specifically stated that the petitioner came to his shop in enquired about Ajay and also threatened that he will be eliminated. He, however, submits that the petitioner is involved in 5 more cases.

5. Faced with this situation counsel for the petitioner relies upon *Prabhakar Tewari Vs. State of UP and Anr., 2020 (1) RCR (Criminal) 831* to submit that the involvement of the petitioner in several more cases cannot be a ground to deny bail.

6. In view of above, keeping in view the nature of allegations levelled against the petitioner, nature of evidence and the admitted fact that he was not physically present at the spot and has been attributed role in conspiracy, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

7. Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

30-04-2024

spn

(PANKAJ JAIN)
JUDGEWhether speaking/reasoned Yes
Whether Reportable : No