



IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision : August 20, 2024

1. CRM-M-22022-2024

Baba @ RahulPetitioner
VERSUS
State of HaryanaRespondent

2. CRM-M-23918-2024

Sethi @ SorabhPetitioner
VERSUS
State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Rao Ajender Singh, Advocate, for petitioner-
Baba @ Rahul

Mr. Rajesh Nain, Advocate, for petitioner-Sethi @ Sorabh

Mr. Bhupender Singh, DAG, Haryana

KULDEEP TIWARI,J. (ORAL)

1. Both these petitions are amenable to be decided together as common relief i.e. seeking regular bail in a common FIR i.e. FIR No.40 dated 04.02.2023, under Sections 147, 148, 149, 323, 452, 506 of the IPC (Section 302 of the IPC added subsequently), registered at P.S. Narwana City, District Jind, has been sought, therefore, both the petitions are taken together for decision.



ALLEGATION(S) AGAINST THE PETITIONER

2. Succinctly stated, the allegation(s) against the petitioners are that they along with their co-accused intruded into the house of the complainant, and caused injuries to her, and her family members. In this assault, one Misro Devi, who was grandmother-in-law of the complainant, lost her life.

3. For ready reference, the relevant extract of complainant's statement, which led to registration of the present FIR, and, which is narrated in the order dated 11.10.2023, whereby, the learned Additional Sessions Judge, Jind, has declined to grant bail to the petitioners, is extracted hereinafter:-

“... On 03.02.2023 at about 10-30 p.m. she alongwith her husband Raju, brother-in-law Somu and grand-mother-in-law Misro were present at their house. She told her husband Raju to bring diaper for her child. On this her husband stepped out from the house to bring the diaper and went to the street where one Ajay son of Manu was already present in the street, who started abusing her husband in high volume. After hearing the voice she came out of the house and she saw that her husband was asked Ajay not to abuse. Thereafter, Ajay slapped her husband then her husband returned to the house. In the meantime, Ajay bring a sword from his house alongwith his family member, associates and relatives namely Suraj son of



Ram Sarup, who was having a gandasi in his hand, Sethi son of Oma who was having a danda in his hand, Sonu son of Mamu who was having a hockey, Bittu son of Abu, Gullu son of Balwan, Baba son of Ram Kumar, Gaurav son of Rajesh, Bimla wife of Ram Sarup forcibly entered in their house. They were sitting in a room in their house and all attacked them. Ajay gave blow with reverse side of sword. Suraj also gave blow with reverse side of gandasi to her grand- mother-in-law. Thereafter, Sethi, Sonu, Bittu attacked on her husband, her grand-mother-in-law and brother-in-law Somu with dandas which were took in their hands and Baba, Gaurav and Bimla gave slap and fist blows to her, her husband, her grand-mother-in- law and brother-in-law Somu. Thereafter, they raised alarm then all the persons on seeing the persons of their locality, ran away from the spot with their weapons. While running Bimla threatened they have been saved and again met then they would be killed and they would not allow them to reside in this locality. She saved her child with difficulties. Locality persons called ambulance and thereafter she shifted her husband, grand mother-in-law and brother-in-law to Civil Hospital for treatment. Due to serious condition of her grand mother-in-law, doctors referred her MAMC, Agroha where she is under treatment. After the Panchayat, the family members of complainant took her with them...”

4. The record, as available before this Court, makes revelations that initially a case was registered under Sections 147, 148, 149, 323, 452, 506 of the IPC. However, upon demise of injured Misro Devi, offence under Section 302 of the IPC, was incorporated in the present FIR.



SUBMISSIONS OF LEARNED COUNSEL FOR THE PETITIONERS

5. The learned counsel appearing for the petitioners, in his asking for the hereinabove extracted relief, has made the following submissions:-

- (i) Though name of the petitioners surface in the FIR, however, no specific role or injury has been assigned to them therein;
- (ii) The sole allegation against the petitioners is that they along with their co-accused intruded into the house of the complainant. Moreover, no motive whatsoever has been assigned to the petitioners;
- (iii) The allegations against petitioner-Baba @ Rahul are that he gave fist blows and slaps to the complainant, victims as well as to the deceased, whereas, petitioner Sethi alias Sorabh has given *danda* blow to the complainant/victim. As per the MLR, the deceased has suffered three injuries, all are on head, which are attributed to other co-accused i.e. Ajay and Suraj.
- (iv) Nonetheless, even if the allegations are taken to be a gospel truth, yet no offence under Section 302 of the IPC, is made out, and, offence only under Section 304 of the IPC, can be attracted at the most, inasmuch as, the demise of injured Misro Devi had occurred after 3 days of the alleged occurrence;



- (v) Out of total 9 accused, 6 accused, including the one(s) who inflicted injuries to deceased Misro Devi, are facing trial, whereas, 3 accused are absconding;
- (vi) The petitioner-Baba alias Rahul was arrested on 14.02.2023, whereupon, he was put behind bars and as on today, he has undergone incarceration of approx. 1 year and 6 months and 4 days, whereas petitioner-Sethi alias Sorabh was arrested on 10.2.2023 and as on today, he has undergone incarceration of more than 1 year, 6 months as on today;
- (vii) That co-accused Ravinder alias Gullu has already been extended the relief of regular bail by this Court vide order dated 19.3.2024 passed in CRM-M-59068-2023, and both the petitioners are on equal pedestal;
- (viii) the trial is not likely to conclude anytime soon, as despite charges becoming framed on 12.07.2023, only two prosecution witnesses, out of total 19 witnesses, have been examined so far, therefore, keeping the petitioner behind the bars would serve no gainful purpose;

SUBMISSIONS OF THE LEARNED STATE COUNSEL

6. Since the petitioner has been facing trial for commission of offence under Section 302 of the IPC, this Court had directed the learned



State counsel to file a status report, which has been filed on affidavit of Sh. Amit Bhatia, Deputy Superintendent of Police, Narwana, District Jind. The status report is taken on record.

7. The learned State counsel has vehemently opposed the grant of the asked for relief (*supra*), and submits that the petitioners were part of an un-lawful assembly, although he also placed on record custody certificates qua the petitioners, which show that petitioner-Baba alias Rahul has suffered incarceration of approx. 1 year and 6 months and 4 days, whereas petitioner-Sethi alias Sorabh has suffered incarceration of approx. 1 year, 6 months and 9 days, as on today. On instructions imparted to him by the official concerned, he has further verified that out of total 19 prosecution witnesses, only 2 witnesses have been examined so far.

8. Be that as it may, this Court is of the view that both the petitions are amenable to be allowed, with the following reasons:-

(i)that neither there is any specific role, nor any injury for murder of deceased Misro Devi has been attributed to the present petitioners;

(ii)the probative value of the material available is to be established during the course of the trial;

(iii)Petitioner-Baba alias Rahul has suffered incarceration of approx. 1 year and 6 months and 4 days whereas petitioner-Sethi alias Sorabh has suffered incarceration of approx. 1



year, 6 months and 9 days as on today.

(iv) trial is not likely to conclude anytime soon, as 17 prosecution witnesses, out of total 19 witnesses, are yet to be examined.

(v)The co-accused of the petitioners, who was on the equal pedestal, has already been granted the relief of regular bail by this Court vide order (*supra*).

FINAL ORDER

9. Considering the hereinabove made discussion, this Court deems it fit and appropriate to grant the concession of regular bail to both the petitioners. Therefore, without commenting upon the merits and circumstances of the present case, the present petitions are allowed. The petitioners are 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.

(KULDEEP TIWARI)
JUDGE

August 20, 2024
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Whether speaking/reasoned ? Yes/No
Whether Reportable ? Yes/No