



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207

Date of decision : 19.07.2024

1. CRM-M-33034-2024 (O&M)

Sonu Petitioner

versus

State of Haryana Respondent

2. CRM-M-33136-2024 (O&M)

Balwant Petitioner

versus

State of Haryana Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Hitesh Verma, Advocate
for the petitioner.

Mr. Apoorv Garg, Sr. DAG, Haryana.

Mr. Arpandeeep Narula, Advocate
for the complainant.

PANKAJ JAIN, J. (Oral)

- Present petitions have been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioners in case bearing FIR No.127 dated 07.06.2023, registered for the offences punishable under Sections 147, 148, 149, 323, 324 and 506 of IPC (Sections 326 and 307 of IPC added later on) at Police Station Nathu Saria Chopta, District Sirsa.
- On oral request made by counsel for the petitioners the present petitions are treated as petitions under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023.



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

“Statement of Hari Singh aged about 60 years son of Sh. Dhanpat resident of Village Barasari Police Station Nathusarai Chopta District Sirsa mobile No.9466058039, stated that I am resident of above mentioned address and doing agriculture work. There is a dispute of our family regarding the passage to our agriculture land with Prahlad and Balwant sons of Jailal residents of Barasari. Prahlad and Balwant had threatened us that we will take that passage. On 07.06.2023 at about 07:00 AM in the morning, I, my son namely Bhoop Singh and my brother Bhagat Ram and Rajinder Kumar were doing work in fields, then Parkash son of Prahlad came on Sawraj Tractor and alongwith Vikas son of Prahlad having Spade, Prahlad son of Jai Lal having Fawda, Balwant son of Jai Lal having Jalie, Sonu son of Balwant having datar came there by raising lalkara that today we will teach them a lesson for taking passage and Parkash son of Prahlad moved the tractor to our side and due to a hit by tractor, I, Bhagat Ram, Bhoop Singh and Rajinder fell down on earth and when we fell down, then Parkash took the Spade from tractor and gave a blow on the head of Bhagat Ram and Rajinder Kumar. Vikas son of Parhald gave spade blow to Bhoop Singh and Balwant son of Jailal gave a jaili blow to Bhoop Singh and Prahlad son of Jai Lal gave spade blow on my head and Balwant son of Jai Lal hit jaili on my back and Sonu son of Balwant gave a datar blow to



Rajinder Kumar and they kicked us while we were lying on earth. After listing noise, my son namely Vijay Pal came on the spot, then all the accused run away from the spot by taking their respective weapons and they also took their tractor and threatened to kill while they were going. Parkash and Vikas sons of Prahlad and Balwant son of Jai Lal, Sonu son of Balwant residents of Barasari in connivance with each other inflicted injuries to us. Legal action be taken against them and they also threatened to kill. Statement is recorded, read and found it correct.”

4. Counsel for the petitioners submits that both the petitioners are behind bars for almost a year. As per custody certificate, Sonu is behind bars for more than 10 months and 18 days. Balwant Singh is behind bars for more than 01 year and 15 days and have clean antecedents. While referring to the allegations levelled in the FIR, counsel for the petitioners submits that so far as Sonu is concerned, the sole injury attributed to him is on the person of Rajender Kumar. Medico legal report of Rajender Kumar is placed on record as Annexure P-5, wherein the medical opinion reads as under:-

“Based upon clinical & NCCT head finding injury is simple in nature.”

5. Counsel representing Sonu thus submits that injury attributed to Sonu is simple in nature. With respect to Balwant, counsel submits that both Balwant as well as Vikas s/o Prahlad have been attributed injures on the person of Bhoop Singh. Vikas s/o Prahlad has been attributed spade blow and Balwant-the petitioner was attributed to jaili blow. So far as incise wound on the person of Bhoop



Singh is concerned, the same is relatable to the spade blow attributed by Vikas s/o Prahlad. Further submits that so far as trial is concerned, the same has proceeded considerably and the most material witness i.e. the complainant Hari Singh stands examined. He thus submits that the petitioners will be entitled to bail especially in view of the fact that the main accused Prahlad stands admitted to bail vide order dated 05.07.2024 in CRM-M-30759-2024 passed by Coordinate Bench observing as under:-

“7. Petitioner has been in custody for the last almost one year and the trial is at a nascent stage as only 02 out of 31 witnesses have been examined. The complainant, who is alleged to have been injured by the petitioner has already been examined. Noticing the nature of allegations levelled against the petitioner, role ascribed to him, length of custody and the stage of trial, this Court is inclined to accept the prayer made in the petition.

8. Without adverting to the merits or de-merits of the arguments addressed, petition is allowed. Petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.”

6. *Per contra*, counsel for the complainant as well as the State counsel would submit that there are serious allegations with respect to injuries caused on the persons of the victims, all the culprits acted together and their roles cannot be separated in the manner as being suggested by the counsel for the petitioners.

7. I have heard counsel for the parties and have carefully gone through the records of the case.



8. Without commenting on the merits of the case, keeping in view the incarceration already suffered by both the petitioners, the fact that the trial is at nascent stage and is not likely to conclude in the near future and in view of the settled proposition of law that the custody of petitioners cannot be prolonged as a punitive measure, the present petitions are allowed. Petitioners are ordered to be released on regular bail on their furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

9. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

10. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

11. A photocopy of this order be placed on the file of other connected case.

(PANKAJ JAIN)
JUDGE

19.07.2024

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No