

CRM-M-39809-2023
Date of decision: 18.01.2024

...PETITIONER

V/S

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR J. (ORAL)

2. The present FIR was lodged by complainant-Pankaj on the allegations that on 21.09.2018 at about 10.45 AM, he along with one Prajwal son of Nihal were going on foot for the purpose of getting coaching from Chankya Academy. When they reached behind Shagun Hotel, Ashutosh, Nikhil and Ankit who were armed with *Bindas* of *kassi* along with 4/5 other boys and Lalit (petitioner herein) and Sandeep who were also armed with *Binda* of *Kassi* along with 10/12 other boys who were armed with *dandas* started arguing with Prajwal and in the meantime, Lalit (petitioner) and Sandeep along with other accomplices started giving beatings to them with their respective '*Bindas*' and Ashutosh, Nikhil and Ankit along with other

respective *dandas*. In the said altercation, complainant Pankaj received injuries on his hand and waist whereas Prajwal received grievous injuries on his head and other body parts. The accused also threatened them of their life. Victim-Prajwal was shifted to Pushpanjali Hospital for treatment and got admitted there. He subsequently succumbed to those injuries, on account of which, the offence punishable under Section 302 of the IPC was added in the case.

3. Learned counsel for the petitioner *inter alia* contends that no specific role has been attributed to the petitioner. Moreover, the post-mortem report of the deceased Prajwal would indicate that he suffered only 02 injuries and the investigating agency has considered 07 persons as innocent, who have been named by the complainant in his statement. As such, the complainant's version cannot be treated to be a credible piece of evidence and the CCTV footage also does not indicate that the petitioner was found giving injuries to either complainant or the deceased and similarly situated 08 co-accused have been granted the concession of regular bail. The petitioner is behind the bars since 21.09.2018.

4. Per contra, the learned State counsel, on instructions from the Investigating Officer, opposes the prayer of grant of regular bail to the petitioner on the ground that in fact, the deceased suffered the fatal blow on his head which is attributed to the present petitioner and weapon of offence '*danda*' used in the crime has been recovered from the possession of the petitioner.

5. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner has already suffered the incarceration of more than 05 years, 03 months and 22 days and he is not involved in any other case. Trial of the case is progressing at a snail's pace as in the last 05 years, out of 26 witnesses cited by the prosecution, only 15 have

been examined so far. Culpability, if any, would be determined at the time of the trial. No useful purpose would be served by further detention of the accused-petitioner.

6. The foundational concept of the criminal jurisprudence is to ensure speedy trial. Hon'ble the Supreme Court has repeatedly reiterated that right to speedy trial is enshrined in Article 21 of the Constitution of India. Speedy trial would cover investigation, enquiry, trial, appeal, revision and retrial etc. i.e. everything starting with the accusation against the accused and expiring with the final verdict of the last Court.

7. It has further been held in law that if a person is deprived of his liberty under a procedure which is not reasonable, fair, or just, such deprivation would be violative of his fundamental right under Article 21 of the Constitution of India. The procedure so prescribed must ensure speedy trial for determination of the guilt of such person. Some amount of denial of personal liberty cannot be avoided, but if the period of deprivation pending trial becomes excessively long, the fairness guaranteed by Article 21 of the Constitution of India would come into play and it would prevail over the embargo created by Section 37 of the NDPS Act.

8. In this regard, reference is being made to the law laid down by Hon'ble Supreme Court of India in the context of right to speedy trial under Article 21 of the Constitution of India on the following decision:- ***Akhtari Bi Vs. State of M.P., (2001) 4 SCC 355, Surinder Singh Alias Shingara Singh vs. State of Punjab, (2005) SCC (Crl) 1674, P. Ramachandra Rao vs. State of Karnataka, (2202) 4 SCC 578, Babu Singh and others vs. State of U.P., (1978) 1 SCC 579, Takht Singh and others vs. State of M.P., (2001) 10 SCC 463; Special Leave to Appeal (Crl) No.2356 of 2010, Kushal Singh vs. State of U.P. (2JJ.) and Fazal vs. State of Uttar Pradesh, (2012) 5 SCC 752.***

9. Accordingly, the present petition is allowed. The petitioner Lalit Kumar is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of the CJM/Duty Magistrate concerned.
10. The present petition seeking regular bail to the petitioner is allowed solely on the ground of long custody already undergone by him and without commenting on the merits of the case lest it may prejudice the outcome of the case pending before the trial Court.
11. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

January 18, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |