



IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision : August 06, 2024

1. CRM-M-57361-2023

Radhey ShyamPetitioner

VERSUS

State of HaryanaRespondent

2. CRM-M-28606-2024

Shyam Kumar YadavPetitioner

VERSUS

State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Sahil Choudhary, Advocate, for the petitioner-
in CRM-M-57361-2023

Mr. Sandeep Singh Jattan, Advocate, for the petitioner
in CRM-M-28606-2024

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. 51 dated 16.01.2023, under Sections 323,307,365,506,34 IPC registered at Police Station Yamuna Nagar, District Yamuna Nagar, has been sought,



therefore, both the petitions are taken together for decision.

2. Both the petitioners, who were arrested on 17.1.2023 in the FIR (*supra*), filed the instant petitions seeking relief of regular bail.

3. The prosecution agency was set up into motion on an information received by SI Shamsher Singh with regard to admission of injured unknown person. After some time, on the statement of Shamsher son of Naushad, the instant FIR was registered. The relevant extract of the complaint reads as under:-

“Stated that I am a resident of the above address and I am illiterate, my parents are alive, I have been working as a laborer in a water tank near VK Timber Plywood for about two months, the name of my contractor is Bir, I On 17-12-2022, at 8 am, I went to VK Timber Plywood Factory for work, which I worked in the factory till 8 pm and I came to my home to have dinner and I came again after an hour at around 9 pm. When I went to the bathroom at 2:30 in the night to drink water and go to the bathroom, three boys who were loading the truck beat me up but I did not tell anyone about this incident. Told that while leaving he had said that you will come out of the factory in the morning and will see you again. After this, after finishing my duty at 8 in the morning, I had taken 8/10 steps out of the factory and someone hit me on the head from behind. I became unconscious, after this I don't know how I reached the railway track and I regained consciousness after reaching Civil Hospital Yamunanagar. I am sure that the same boys with whom I had a fight in the factory hit me on my head. I have been thrown on the railway lines”.

4. This Court has earlier issued notice to the respondent-State, and directed to file reply to the instant petition. In pursuance thereof, reply



in respect of Radhey Shayam has already been filed, whereas, in respect of Shyam Kumar Yadav, the learned State counsel has filed reply today, and the same is taken on record. A perusal of the reply reflects that after registration of the FIR, on the basis of secret information, the present petitioners along with Ravinder Kumar son of Upender were arrested. During investigation, they suffered their respective disclosure statements, and as per their disclosure statements, both the petitioners, and accused Ravinder Kumar got recovered their respective *Dandas*, used in the commission of offence. They also demarcated the place of occurrence. One of the accused Ravinder Kumar was found juvenile during investigation. The test identification parade was also held by the prosecution agency on dated 18.1.2023, and the victim complainant identified all the three arrested accused, and on completion of investigation, the final report under Sections 323, 325, 307, 365, 506, 34 IPC, against the present petitioners was submitted.

5. Learned counsel for both the petitioners collectively submit that their names do not figure in the FIR, rather they were arrested on the basis of disclosure statement. There is no specific attribution to the petitioners for causing injuries which attracts the penal provisions of Section 307 IPC. They further draw the attention of this Court in this regard towards the MLR, as per which injuries No. 2 and 3 are simple abrasions whereas there is only one injury, i.e. right temporo occipital



region of scalp of the injured, which was declared grievous, and subsequently on the basis of said injury, the penal provisions of Section 307 IPC were invoked. It is also submitted that the petitioners have suffered incarceration of 01 year, 06 months and 18 days, and the trial is at initial stage. It is further submitted that the petitioner(s) have clean antecedents, and, therefore, their further incarceration in the instant case is totally unwarranted.

6. Learned State counsel has opposed the grant of regular bail to the petitioners, and submits that weapon of offence was duly recovered at the behest of the petitioners, and even during investigation, identification parade was done, and the petitioners were duly identified by the victim, and therefore, it is an open, and shut case. He has also filed custody certificates of the petitioners, which are taken on record. He has also informed that final report has been filed on 5.4.2023, and charges have been framed on 18.7.2023, and out of total 15 witnesses cited by the prosecution, only 5 have been examined so far.

7. After considering the rival submissions made by both the parties, this Court is of the view that both the petitioners deserve to be released on regular bail for the reasons that they have suffered incarceration for 01 year, 06 months and 18 days; there is no specific injury attributed to any of the petitioners. Further the petitioners have clean antecedents. The trial is at initial stage as only 5 witnesses out of 15 witnesses cited by the



prosecution, have been examined so far. Therefore, both the present petitions are **allowed**.

8. The petitioners are ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

9. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

August 06, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned ? Yes/No
Whether Reportable ? Yes/No