

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No. 44340 of 2017

DATE OF DECISION :- January 24, 2018

James

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Bhriugu Dutt Sharma, Advocate for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.

This petition for regular bail has been filed by petitioner James, an accused in F.I.R. No. 85 dated 3.6.2016 for offences under Section 323, 324, 326, 506, 427, 148, 149 IPC registered with Police Station Division 2, Jalandhar.

Briefly stated facts of the case as per prosecution version are that complainant – Jyoti Masih son of Shri Sabar Masih resident of H. No.162, Banda Bahadur Nagar, Police Station Division No.2, Jalandhar aged about 38 years got his statement recorded with the police on 03.06.2016 stating therein that he is a taxi driver; that on 22.05.2016 at about 1:30 p.m. when he was present at his house, his elder brother Sundar Masih who along with his family reside in a room on the upper floor of his house along with James (present petitioner) and his wife Parveen were closing the ventilator in the street thereby blocking air and light for the complainant; that according to the complainant he went to the roof to enquire

from his brother and family member as to why ventilator was being closed, the moment he reached there Sundar Masih raised a *Lalkara* that complainant be taught a lesson for stopping them for closing ventilator; that Sundar caught hold of complainant from his left arm, James (petitioner) brought a *Datar* from inside the house and gave a blow to the complainant hitting him on right arm upon which the complainant has raised to save himself. His son Joban and Prince son of Mottu, came to the spot and saved the complainant from the assailants, but such accused assailants had caused injuries to Jacob, William and Jones, besides Parveen with bricks and bottles; that a large number of persons of the area arrived there, such accused assailants damaged AC belonging to the complainant installed on the roof. The injured were taken to Civil Hospital, Jalandhar, where they were medically treated and medico legally examined. After the incident the resident of Mohalla tried to effect compromise between the parties but that effort could not materialize, as such, matter was referred to the police.

Accused was arrested in this case on 19.9.2017 and he is in custody since then. He had moved an application for regular bail, in Court of Sessions but the same was dismissed by Additional Sessions Judge, Jalandhar vide order dated 13.10.2017, as such he has approached this Court praying for grant of similar relief. The petition is being resisted by the learned State counsel.

I have heard learned counsel for the petitioner and learned State counsel besides going through the record.

Learned counsel for the petitioner states that fight had taken place between collateral and there is counter version of the incident also. There is only single injury with *Datar* attributed to the petitioner. The recovery of weapon has also been effected, therefore, he be granted concession of regular bail, whereas this request is opposed by the State counsel and counsel for the complainant vehemently.

After hearing the rival contentions, I find that though challan is said to have been filed but the trial is at initial stage. Conclusion of trial is likely to take some time. The guilt of the accused shall be determined during the trial.

Without touching the merits of the case, the petition is accepted and the petitioner is ordered to be released on bail on furnishing bail bond and surety bond to the satisfaction of the learned trial Court/CJM/Duty Magistrate, Jalandhar subject to the following conditions : -

- (i) he shall appear in the Court on each and every date of hearing.
- (ii) he shall not give any threat or intimidation to the prosecution witnesses.
- (iii) he shall not leave India without prior permission of the Court.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial.

In case the petitioner violates any term and condition on which the bail has been granted to him, order shall be liable to be withdrawn.

(H.S. MADAAN)
JUDGE

January 24, 2018
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No