

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M- 17484 of 2020

Date of Decision: 25.08.2020

Davinder Kumar

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Rishabh Gupta, Advocate
for the petitioner.

Mr. Dhruv Dyal, Senior Deputy Advocate
General, Punjab for the respondent.

Mr. Umesh Sharma, Advocate
for the complainant.

Anil Kshetarpal, J.

The present petition has been filed for grant of regular bail to the petitioner pending trial in a criminal case arising from FIR No.27 dated 27.01.2019, registered under Section 323, 341, 506, 427 & 34 IPC (Sections 308 & 325 IPC were added lateron) at Police Station Model Town, District Hoshiarpur.

In a nutshell, the case of the prosecution has been noticed by the learned Additional Sessions Judge, Hoshiarpur in para 5 of her order dated 17.06.2020, which is extracted as under:

“Perusal of record shows that present case was registered on the basis of statement of complainant Kuldeep Singh, who has alleged that on 26.01.2019 he was going to Piplanwala on his Activa scooter. At about 5:20 p.m., when he reached near railway line, Komalveer forcibly stopped him and Komalveer

called two boys from inside, who were armed with baseball bat and Danda. The boy armed with baseball bat gave baseball bat blow, which hit on left side of his head, near 3 ear and the other boy gave Danda blow, which hit on his right arm. Thereafter, Komalveer, another lady accompanying her and two boys gave internal injuries to him and damaged his Aactiva scooter. He was got admitted in Civil Hospital, Hoshiarpur, from where he was referred to PGI, Chandigarh. On the basis of said statement, initially FIR under Section 341, 323, 506, 427, 34 IPC, 1860 was registered. Thereafter, supplementary statement of complainant Kuldeep Singh was recorded on 10.02.2019, wherein, he stated that on his personal inquiry, he came to know that the lady accompanying Komalveer Kaur was Sunita and the person, who inflicted injuries upon his head with bat was Davinder Kumar @ Binder and one who attacked upon him with Davinder Kumar @ Binder with Danda was Amolakveer Singh and he can identify them on seeing. On receipt of opinion about injuries kept under observation, offence under Section 308, 325 IPC, 1860 was added in this case. Record further shows that injury No.1 on the person of complainant is attributed to applicant/accused with allegations that he attacked complainant with baseball bat. Perusal of injury report shows that this injury is stated to be dangerous to life, if no immediate medical intervention given to the patient. Injury No. 2, which is attributed to non-applicant/accused is

also found to be grievous in nature. Therefore, the case of applicant/accused does not cover by the guidelines issued vide Review Meeting of High Powered Committee, held on 02.05.2020, where it is mentioned that bail application can be considered where injuries are not of serious nature.....”

Learned counsel for the petitioner contends that the incident is alleged to have happened in the spur of moment and there was no previous enmity between the parties. He further submits that the petitioner is in custody since 08.06.2020. He further submits that no doubt, the petitioner was previously convicted for the offence under the Narcotic Drugs & Psychotropic Substances Act, 1985 in the year 2015, however, his sentence was suspended and he is now a reformed person.

On the other hand, learned counsel for the respondent has submitted that it is the petitioner who is alleged to have given base-ball bat blows on the left side of the head of the victim.

This court has considered the arguments of learned counsel for the parties. The conclusion of the trial is likely to take long time, hence, without commenting on the merits of the case, the present petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the learned trial Court/Chief Judicial Magistrate/Duty Magistrate.

(Anil Kshetarpal)
Judge

August 25, 2020
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No