

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

203

CRM-M No.18677 of 2021
Date of decision:25.05.2021

Mukesh Kumar @ Motu

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Nitin Sachdeva, Advocate for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

SUVIR SEHGAL J. (ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

Petitioner has filed this petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.180, dated 23.08.2020, Annexure P-1, registered under Sections 307, 304, 323, 324, 341, 279, 427, 506, 148 and 149 IPC, registered at Police Station Division No.7, District Ludhiana.

FIR, Annexure P-1, has been registered on the statement of Chatarbhuj Tawar on the allegation that the complainant and his son Pankaj were attacked by Jonti, Bela, Sunny, Gurdeep Singh and 10-12 other boys, who came armed with swords, danda (stick) and baseball bats in a Bolero car. Jonti struck the complainant with a sword on his upper limbs and head. Gurdeep Singh attacked Pankaj with a baseball bat. When Nitin, who is the tenant of the complainant, intervened, injuries

were inflicted on him also. The complainant and his son raised an alarm on which the accused ran away from the spot with their weapons. Nisha, wife of the tenant, who was standing on the street was run over by the car in which the accused were travelling, under the impression that she is the wife of the complainant. Nisha was taken to Apollo Hospital, where she was declared dead.

Counsel for the petitioner has contended that the petitioner has been falsely framed in the case and he was working as a labourer at a factory at a distance of 2-3 kms. from the place where the alleged occurrence is stated to have taken place. He urges that the petitioner has not been named in the FIR and has been roped in on the basis of the supplementary statement of the complainant which was recorded more than 02 months after the registration of the FIR. He submits that the offence attracting Sections 304 and 307 IPC is not attributed to the petitioner and he is not alleged to be the driver of the offending car. Still further, he submits that investigation has been completed, challan has been presented and the petitioner, who has clean antecedents and is in custody since 31.10.2020, deserves to be enlarged on bail as the trial is not likely to progress due to the restrictive functioning of the Courts during the pandemic.

On the other hand, State counsel upon instructions from ASI Rashpal Singh has opposed the petition and submitted that the petitioner along with other co-accused had attacked the complainant and his son with a predetermined mind, causing them severe injuries. In the ensuing melee, Nisha was run over by the car in which they were fleeing from the

spot. He has instruction to state that a baseball bat has been recovered from the petitioner. However, he is not in a position to deny that the petitioner is not involved in any other criminal case. As per his instructions, the challan has been presented on 23.11.2020 and 07 out of 13 prosecution witnesses have been examined.

I have considered the rival submissions of the parties.

From the factual aspect, as argued by the counsel for the petitioner, the involvement of the petitioner in the crime is debatable.

Keeping in view the nature of allegations, gravity of offence, period of custody and the fact that the trial is not progressing due to the spread of the contagion, no purpose would be served by keeping the petitioner behind bars any further.

Without commenting anything on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

25.05.2021

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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No