

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

CRM-M-26392-2021 (O&M)
Date of Decision:- 15.12.2021

Rajbir Kashyap @ Raju

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Lakshay Bector, Advocate for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in a case registered against him vide FIR No.15 dated 29.5.2018 under Sections 302/120-B IPC at Police Station Tibba, District Ludhiana.
2. The FIR was lodged at the instance of Manjit Singh wherein it is alleged that on 28.5.2018 when he had gone home during afternoon from his workplace, he saw that one person namely Rajbir Kashyap (petitioner) was beating his mother with an iron rod. When the complainant rushed to save his mother, the said accused ran away from the spot while taking the iron rod alongwith him. Although, the complainant's mother was rushed to hospital but she ultimately succumbed to her injuries.
3. The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that in any case even if the

allegations are taken to be correct, still at best it would be a case attracting offence under Section 304 IPC and not an offence under Section 302 IPC inasmuch as the petitioner allegedly was armed with an iron rod only. The learned counsel has further submitted that the petitioner in any case deserves bail on grounds of parity since two other co-accused have already been granted bail.

4. Opposing the petition, the learned State counsel has submitted that the petitioner cannot claim parity with the co-accused inasmuch as it is the petitioner only who is alleged to have inflicted injuries whereas the co-accused have been arrayed with the aid of Section 120-B IPC. The learned State counsel has, however, informed that the petitioner has been behind bars since the last about 3 years and 7 months and that as on date 10 out of 21 prosecution witnesses including material prosecution witnesses have already been examined. It has also been informed that the petitioner is not involved in any other case.
5. I have considered rival submissions addressed before this Court.
6. Having regard to the fact that it is a case where the petitioner is alleged to have inflicted injuries with a blunt edged weapon i.e. an iron rod, it will be debatable as to whether the offence in question would fall under Section 304 IPC or Section 302 IPC. In any case, the petitioner has been behind bars for a substantial period of 3 years and 7 months and is not even stated to be involved in any other case. In these circumstances, further detention of the petitioner will not serve any useful purpose.

7. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

15.12.2021

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(Gurvinder Singh Gill)
Judge

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