

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH
(222)**

**CRM-M-27687-2021
Date of decision:-26.07.2021**

Ajay

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Munish Raj Chaudhary, Advocate
for the petitioner.

Mr. H.S.Multani, AAG, Punjab.

...

SUVIR SEHGAL, J. (ORAL)

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

Instant petition has been filed by the petitioner under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.153 dated 18.09.2020 under Sections 323, 341, 506, 148 and 149 of the Indian Penal Code, 1860 (Section 307 of IPC was added later on), registered at Police Station Punjab Agriculture University (PAU) Ludhiana, District Ludhiana (Annexure P-1).

FIR (Annexure P-1) has been registered on the statement of Vijay Pal on the allegation that on 16.09.2020 at about 09:30 P.M., he saw his uncle-Jagdish, his brother-Ajay (present petitioner) and his son-Sandeep Kumar and 4-5 unknown persons assaulting his brother-in-law-Suresh

Kumar. On his intervention, he was physically assaulted by Ajay, Sandeep Kumar and Jagdish, who hit him, on the head with a hockey. Some of his relatives, who came at the scene of occurrence, faced the wrath of the aggressors.

Counsel for the petitioner has argued that a free fight had taken place between the accused and the complainant in which the petitioner as well as co-accused had received injuries. He has made a reference to MLRs of the petitioner and Jagdish (Annexure P-2 and P-3) to support his assertion. He submits that when the cross version of co-accused-Jagdish was not registered, he filed a petition (CRM-M-39044-2020) seeking a direction to the State in which notice has been issued and is pending before this Court. He urges that offence under Section 307 of the Indian Penal Code, 1860 is not made out against the petitioner. He asserts that the investigation qua the petitioner is complete, challan has been filed and the petitioner, who is in custody since 15.10.2020, deserves to be released on bail.

Per contra, learned State counsel upon instructions from ASI Amrik Singh has opposed the petition and submitted that injury No.1 received by the complainant on his head has been declared to be dangerous to life, though he could not dispute the fact that the same is not alleged to have been inflicted by the petitioner. As per his instructions, challan has been presented on 13.12.2020, though, the charge has not yet been framed.

I have considered the respective submissions of counsel for the parties.

It is case of version and cross-version and it is yet to be determined as to who is the aggressor. In these circumstances, this Court is of the view that the petitioner, who is in incarceration for the last more than nine months deserves to be enlarged on bail during the pendency of the trial.

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

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

26.07.2021
Kamal

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