

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

CRM-M-38053-2021 (O&M)

DECIDED ON: 20th September, 2021

Dilshad alias Bhura

.....PETITIONER

VERSUS

State of Haryana

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. M.D. Khan, Advocate for the petitioner.

Ms. Geeta Sharma, DAG Haryana.

AVNEESH JHINGAN, J (ORAL)

Due to COVID-19 situation, the Court is convened through video conference.

This second petition under Section 439 Cr.P.C. is filed seeking regular bail in case of FIR No. 208 dated 17.12.2020, under Sections 148, 149, 307 (later added under Sections 323 and 325 IPC) registered at Police Station Partap Nagar, District Yamuna Nagar.

FIR was registered on the statement of Manjit Kumar working as a Munshi in Kamlesh Stone Crusher, Belgarh. The allegations are that on 17.12.2020, when dumpers loaded with material were being weighed at Reality Weighing Machine, Dilshad alias Bhura (petitioner), Mashooq alias Monu, Masoom alias Babbal, Meharban alias Ninna, and Jishan came on car bearing registration No. HR-27-D-0224 and insisted that E-departure of their vehicles should be issued out of turn and complainant should take away his vehicle. On resistance accused got infuriated. Petitioner and Masoom alighted the car and started abusing and pulling the complainant. On hearing the noise, Anuj Kumar and Parveen Kumar owner of Stone Crusher came to the spot, they

tried to get the complainant released from accused. Petitioner and Masoom raised lalkara and hearing it Mashooq alias Monu started the car and hit Anuj Kumar at a high speed, as a result of the impact Anuj Kumar fell down. Thereafter Parveen Kumar was struck with the car, he fell down and tyres of the car crossed over him. The car was backed, run over Parveen Kumar, both the tyres of the car crossed over the stomach of Parveen Kumar and he suffered fractures.

Learned counsel for the petitioner submits that the petitioner is in custody since 18.12.2020. The argument is that petitioner is the victim and the complainant was the aggressor, he relies upon the photographs annexed with the petition to substantiate the allegation. He relies upon the MLR to submit that accused also suffered injuries. The contention is that there is a cross-version of the incident which was not recorded and CRM seeking direction to consider representation is pending. The contention is that allegations of injuries are against co-accused and not the petitioner.

Learned State counsel opposes the prayer for grant of bail and submits that enough material is there to show that all accused had acted with intention to kill. Firstly, Anuj was struck by the car, thereafter, intentionally with high speed, the car was taken towards Parveen Kumar and he was run over by car. Then the car was brought back and second time the tyres crossed over the stomach. Learned State counsel further submits that though challan stands presented but complainant is yet to be examined.

This is second petition seeking regular bail. Earlier petition filed through different counsel was withdrawn realizing that Court was not inclined to grant bail. The nature of allegations and gravity of offence in the present case are serious. Twice successful attempts were made to hit Parveen Kumar. Both

" Multiple rib fracture with associated right pneumothorax as described. 2. Collapse right lower lobe lung contusion. 3. subcutaneous emphysema in the supra clavicular right axillary region and thoracic chest wall on right side."

Reliance on the MLR and the photographs do not enhance the case of the petitioner for grant of bail. It is not forthcoming from the pleadings as to who clicked the photographs and on what date. In some of the photographs only loading machines and dumpers are visible. MLR only shows that the accused sustained injuries allegedly in the same incident. Complaint dated 17.12.2020 and pendency of criminal miscellaneous petition in this Court is relied upon to argue that there is a cross version of the incident. The fact remains that till date there is neither any DDR nor FIR for the cross version.

There is nothing annexed with the pleading to even *prima-facie* substantiate the fact that complainant was the aggressor. The incident is recorded on CCTV footage and the same is available with the investigating agency. The petitioner is specifically named in the FIR. The contention that the injuries have been attributed to co-accused need not be commented in detail at this stage. Suffice-to-say that Sections 148 and 149 IPC have been invoked, it would not be appropriate for this Court at this stage to comment and single out the role and injuries attributed to each of accused. Though the challan stands presented but the complainant is yet to be examined, if the petitioner is released on bail, there are fair chances of witnesses being influenced.

No ground is made out for grant of bail.

Dismissed.

(AVNEESH JHINGAN)
JUDGE

20th September, 2021

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<i>Whether speaking/reasoned</i>	Yes
<i>Whether reportable</i>	Yes