

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.218

Criminal Miscellaneous No.M-39461 of 2020
Date of Decision: September 1st, 2021

Talwinder Singh

..... PETITIONER(S)

VERSUS

State of Punjab

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE SANT PARKASH**

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PRESENT: - Mr. Jasraj Singh, Advocate, for the petitioner.

Mr. Sarabjit Singh Cheema, Assistant Advocate General,
Punjab.

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Sant Parkash, J

1. The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court.
2. The instant petition has been preferred by the petitioner under Section 439 Cr.P.C. for bail in case FIR No.205 dated 17.08.2020 (Annexure P-1) under Sections 323, 324, 452, 307, 379-B, 427, 506, 148, 149 IPC, registered with Police Station, Tanda, District Hoshiarpur.
3. The present FIR was registered on the basis of statement of complainant – Rohit Kumar who alleged that on 15.08.2020 at about 05.15 PM, he and his father Des Raj sustained grievous injuries at the hands of petitioner and his 4/5 companions, who came in two cars and were armed with Datar, Kirpan and Baseball bats. The complainant suffered 5 injuries on his person whereas his father suffered 9 injuries.

4. Learned counsel for the petitioner has submitted that it is a case of version and cross version. The alleged occurrence took place on 15.08.2020 whereas FIR was registered on 17.08.2020. Petitioner also received multiple grievous injuries including head injuries and a fracture on his left arm and undergone a surgery. Petitioner was hospitalized from 16.08.2020 to 27.08.2020. Though, complainant party also received injuries but all were on non-vital parts of the body.

5. Learned counsel further submitted that earlier also, complainant party got registered FIR No.161 dated 11.07.2019 (Annexure P-7), under Sections 326, 323, 324, 341, 452, 506 and 34 IPC against the petitioner and his family members wherein petitioner was granted anticipatory bail by the trial court vide order dated 16.03.2020 while noticing the fact that as per Board of Doctors, the injury attracting Section 326 IPC on the person of one Surinder Singh of complainant party was found to be self inflicted or by a friendly hand. In this case also, a cross case was registered against the complainant party, as petitioner's father suffered as many as 6 injuries including 2 grievous injuries.

6. Learned counsel has further submitted that petitioner has been in custody since 27.08.2020. Investigation in the present case is complete and final report under Section 173 Cr.P.C. has already been filed in the court of competent jurisdiction way back on 24.11.2020, which has further been committed to the court of Sessions. Charge has not been framed. Conclusion of trial will take long time to conclude as the courts are working in restricted manner due to out-break of Covid-19.

7. *Per contra*, learned State counsel has opposed the prayer made in the petition on the ground that petitioner alongwith his companions

caused grievous injuries to the complainant and his father. However, custody period of petitioner is not disputed.

8. I have heard learned counsel for the parties and perused the record.

9. The alleged occurrence took place on 15.08.2020. Both the parties received injuries including grievous ones. Petitioner had also undergone surgery and remained hospitalized from 16.08.2020 to 27.08.2020. Though, complainant party received grievous injuries, it is highly debatable whether Section 307 IPC can be said to be made out or not. Record reveals that charges have not yet been framed. Prosecution has cited 18 witnesses and trial will certainly take long time. Being a case of version and cross-version, the question that which of the two parties was aggressor has to be adjudicated during trial.

10. Keeping in view the totality of facts & circumstances of the case including the custody period of petitioner being almost a year, as also the fact that conclusion of trial will take time, no useful purpose would be served by keeping the petitioner in custody any further. Accordingly, the petitioner is ordered to be released on bail subject to his furnishing adequate surety/bonds to the satisfaction of trial court/Chief Judicial Magistrate concerned.

11. The petition stands allowed.

(Sant Parkash)
Judge

01.09.2021
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No