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

**CRM-M No.53312 of 2021 (O&M)
Decided on: 23.12.2021**

Wahab

....Petitioner

Versus

State of Haryana

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Harsh Mehla, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

Mr. Manoj Pundhir, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.515 dated 02.10.2021, for offence punishable under Sections 148, 149, 323, 307, 506 of the Indian Penal Code (in short 'IPC') (Section 325 IPC added later), registered at Police Station Sadar Yamuna Nagar, District Yamuna Nagar.

Counsel for the petitioner has argued that there was a marriage in the family of the petitioner where music was played on a DJ and the complainant side came at the house of the petitioner and started objecting to the same. It is further submitted that though, the Administrative directions are there to play the DJ upto 10:00 PM however, the incident has taken place at around 09:00 PM. It is further

argued that as per the allegations in the FIR, when the victim came to the house of the petitioner along with others including Farukh, on whose statement, the FIR has been registered, it was found that Rafi, the petitioner – Wahab, Ajmat, Mukram, Raseed, Aashiq, Akhtar, Mujahir, Aas Mohammed, Moseem @ Lalu, Badlu, Dishad, Fauji, Arshad and other persons, who were present at the spot became annoyed. Thereafter, Rafi gave a gandasi blow on the head of the victim Ahsan, Aashiq gave danda blow to Manuvar, Raseed and Majaheer gave danda blow to Salamudeen, Mukaram gave iron rod blow on Ahsan and other persons attacked with brick bat.

Counsel for the petitioner has further submitted that a bare perusal of the FIR reveals that it is stated by one of the injured witness that the petitioner – Wahab was only present at the spot and no injury is attributed to him and later on, by recording the statement under Section 161 Cr.P.C., the petitioner has been nominated subsequently just to add his name in the case. It is also argued that the petitioner is the first offender and he is in custody for the last about 01 month and 27 days and the investigation is complete in this case.

Counsel for the petitioner has also submitted that it is the complainant side, who was aggressor as they came to the house of the petitioner and started interrupting in the performance of the marriage function for which the dispute occurred and even from the petitioner's side, the injuries were sustained. It is also argued that 02 of the co-accused namely Akhtar and Mujahir, have been granted the concession of anticipatory bail vide order dated 26.11.2021 passed in CRM-M No.49486 of 2021.

In reply, counsel for the State assisted by counsel for the complainant has submitted that subsequently the statement of the injured/victim Salamudeen @ Salmu was recorded on 14.10.2021 in which he has named the petitioner as a person, who has caused injuries on his head and nose.

Counsel for the complainant has also referred to the medical record to suggest that there is a fracture of the bone of nose and the injury was declared grievous in nature.

Counsel for the complainant has additionally argued that the FIR was registered on the statement of the injured Farukh, though, he has not attributed any injury to the petitioner, however later on, it came in the statement of the victim Salamudeen that the petitioner has caused grievous injury. It is also argued that the injury was later on, declared dangerous to life.

In reply, counsel for the petitioner has submitted that the FIR was registered on 02.10.2021 on the basis of the statement of Farukh and statement under Section 161 Cr.P.C. of the victim was recorded on 14.10.2021 i.e. after a period of about 12 days and in the intervening period, the petitioner is attributed the main injury by making the improvement in the FIR version and therefore, it will be a matter of trial whether the FIR version is correct or the improvised version recorded under Section 161 Cr.P.C., is correct. Counsel for the petitioner has also submitted that it is a case of version and cross-version as both the sides have suffered injury and as per the prosecution version, it is the complainant side, who was the aggressor and came to the house of the petitioner's side and created disturbance in their

marriage function.

After hearing the counsel for the parties, without commenting anything on merits of the case, considering the fact that the name of the petitioner was cited as the person, who caused injuries after 12 days of the registration of the FIR though, in the first version recorded by the injured Farukh, no injury is attributed to the petitioner and also in view of the fact that it is a case of version and cross-version in which one of the moot point to be decided during the course of trial is as to who is the aggressor party and also in view of the fact that the petitioner is the first offender; he is in custody for the last about 02 months; the investigation qua him is complete and conclusion of the trial is likely to take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

23.12.2021

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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No