

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(221-2)

CRM-M-13372-2022

Date of decision:- 08.09.2022

Gurdeep Singh alias Sunny

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Aayush Gupta, Advocate
for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab
for State-respondent.

SUVIR SEHGAL, J. (ORAL)

This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of post-arrest bail in case FIR No.0180 dated 23.08.2020, registered for offences under Sections 323, 324, 341, 307, 304, 279, 506, 427, 148 and 149 of the Indian Penal Code, 1860, at Police Station Division No.7, District Police Commissionerate Ludhiana, Annexure P-1.

Case of the prosecution is that FIR, Annexure P-1, has been registered on the statement of Chaturbhuj Tanwar on the allegation that he and his son, Pankaj, were attacked by Jonty, Bhainta, Sunny and Gurdeep Singh @ Sunny (present petitioner) and 10-12 other boys, who came armed with swords, wooden sticks and baseball bats in a *Bolero* car. Jonty struck the complainant with a sword on his upper limbs and head while Gurdeep

Singh @ Sunny attacked Pankaj with a baseball bat. Nitin, who is the tenant of the complainant, tried to intervene, but he, too, was attacked. When they raised an alarm, the accused fled from the spot on their vehicle and ran over Nisha, wife of the tenant, under the impression that she is related to the complainant. Nisha was declared brought dead at a Private Hospital.

Counsel for the petitioner has submitted that the first petition filed by the petitioner (CRM-M-44019-2020) was withdrawn on 07.09.2021, Annexure P-5, as the trial was yet to start. He submits that now not only the charges have been framed, but the complainant has also been examined. By referring to the testimony of Chaturbhuj Tanwar, complainant, counsel urges that the allegation against the petitioner is that he was armed with a baseball bat with which he tried to hit the complainant's son, but missed. Counsel submits that the petitioner is not accused to have inflicted any other injury and is alleged to be a member of an unlawful assembly. Counsel asserts that that the petitioner, who has an unblemished past and is in custody since since 26.08.2020, deserves to be enlarged on bail.

Per contra, learned State counsel, upon instructions from ASI, Prem Chand, has opposed the petition and has submitted that the petitioner, accompanied by the co-accused, had connived and in a predetermined manner attacked the complainant and his son due to a past rivalry. State counsel, however, could not dispute the testimony of the complainant. As per his instructions, 19 more witnesses are to be examined.

Having considered the submissions made by counsel for the parties, but without adverting to the merits or demerits of the arguments

addressed, this Court is prima facie of the view that the culpability of the petitioner in the offence would remain controvertible before the Trial Court. The length of custody of the petitioner, the role ascribed to him, and the fact that the trial is at an initial stage are other factors, which have weighed with this Court while accepting the prayer made by the petitioner.

Petition is allowed.

Petitioner is ordered to be released on bail during the pendency of trial, on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate concerned.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

08.09.2022

Kamal

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