

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

205

CRM-M-16677-2021

Date of Decision : **May 20, 2022**

BIRJU @ BIRJU SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Saurabh Sharma, Advocate
for the petitioner.

Mr. Davinder Bir Singh, DAG, Punjab.

Mr. Suryakant Gautam, Advocate
for the complainant.

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.11 dated 21.1.2019 under Sections 323, 341, 148, 149 IPC (later on added Sections 302, 325 IPC), registered at Police Station Kotwali, Nabha.

It has been submitted by the learned counsel for the petitioner that as per the allegations contained in the FIR itself the only role attributable to the petitioner was that he was holding brick and there is no overtract of the petitioner nor there is any allegation that any injury was caused by the brick whereas the injury was caused by blunt weapon as per the MLR. He submitted that the petitioner is in custody from 3 years 3 months and 21 days and out of 28 cited witnesses, 9 witnesses

including the material witnesses have already been examined. He further submitted that infact the petitioner was falsely implicated in the present case and he has clean antecedents and is not involved in any other case. He submitted that considering the alleged role of the petitioner and the custody of the petitioner and the fact that the material witnesses have already been examined, he may be considered for the grant of regular bail. He further submitted that similarly situated co-accused, namely, Ganga Rani qua whom the same role has been attributed has been granted regular bail by this Court in CRM-M-12398-2022.

The learned State counsel has submitted that it is correct that the petitioner is in custody from 3 years 3 months and 21 days and out of 28 cited witnesses, 9 witnesses including the material witnesses have already been examined. He submitted that similarly situated co-accused who is at parity with the petitioner has been granted bail by this Court on 11.5.2022 and the petitioner is not involved in any other case. However, he has opposed the grant of regular bail to the petitioner on the ground that he was a part of the unlawful assembly and the matter was serious in nature.

Mr. Suryakant Gautam, Advocate has appeared on behalf of the complainant.

I have heard the learned counsels for the parties.

The petitioner is stated to be in custody from 3 years 3 months and 21 days and the material witnesses have already been examined. As per the learned counsel for the parties, the role attributable to the petitioner was that he was holding brick but there was no allegation

that he had thrown on the deceased. The petitioner is not involved in any other case as per the learned counsel for the parties. The other similarly situated co-accused, namely, Ganga Rani has been granted bail by this Court on 11.5.2022. Furthermore, it is not the case of the State that in case the petitioner is released on bail then he may influence any witness or may tamper with any evidence or may abscond from justice.

Therefore, considering the totality of facts and circumstances of the present case, the present petition is allowed. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

May 20, 2022
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(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No