

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

CRM-M-21226-2021
Date of Decision: 18.04.2022

SUBHASH CHAND

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present : Mr. Rao Ajender Singh, Advocate
for the petitioner.

Mr. B.S. Virk, D.A.G., Haryana.

Mr. Nitish Sharma, Advocate
for the complainant.

RAJESH BHARDWAJ, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in cross case i.e. DDR No.12 dated 29.11.2020, registered under Sections 323, 324, 506, 34 IPC (offence under Sections 326 and 307 IPC added later on) in FIR No.629 dated 09.12.2020, registered under Sections 323, 324, 354-A, 354-C, 452, 506 of the Indian Penal Code, at Police Station City Narnaul, District Mohindergarh.

As per the facts of the case, the present case emanates from the dispute between the parties, which resulted in version and cross-version. The DDR, in question was lodged by the complainant-Monu @ Vikas. It was alleged that on 29.11.2020, he saw Subash (the present petitioner) son of Jai Narayan and his wife Bimla, who were giving abuses to his parents. Suddenly, Subash lifted a brick and hit the same on the head of the

complainant-Monu. When his father came for his rescue, one Deepak son of Vijay caught hold his mother from behind and Subash caught hold his father with an intention to kill him. Thereafter, Subash gave a knife blow into the stomach of his father. When his mother came for the rescue, Subash hit on the hand of her mother with a wooden piece. The DDR was lodged to take the legal action against the accused. On the same day, a cross-version at the behest of daughter-in-law of the petitioner was lodged. On lodging of both the versions, the investigation commenced. The challan was presented.

After framing of the charge, the case is fixed for recording of the evidence. The petitioner was arrested on 08.04.2021. He approached the Court of learned Additional Sessions Judge, Narnaul for grant of bail under Section 439 Cr.P.C, who after hearing counsel for the parties, declined the same vide order dated 12.05.2021. Aggrieved by the same, petitioner approached this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He submits that the occurrence in question has taken place on 29.11.2020 at the place of the petitioner itself. The FIR, in question, was lodged on 09.12.2020 i.e. after an un-explained delay of about 11 days. He submits that from the allegations in the FIR, the petitioner has been said to have given a brick blow on the head of the complainant and a knife blow on the stomach of Dharmender-father of the complainant.

Learned counsel for the petitioner has drawn the attention of this Court to the MLR of Dharmender, where there are two injuries shown

and both the injuries are lacerated wound. He submits that the ocular version is not medically corroborated and the knife blow could not have been a lacerated and the same should have been incised injury. He further submits that after this, in a clandestine manner, the complainant side got the injured-Dharmender admitted in Jaipur and sought an opinion on the injuries declaring them to be dangerous to life. He submits that this opinion declaring the injuries dangerous to life, was given on 29.01.2021 which further cast shadow on the authenticity of the prosecution case. He has further submitted that during this fight, the petitioner himself was injured and he suffered two injuries. He has drawn the attention of this Court to the injuries suffered by the petitioner, where there are two injuries shown to have been caused to the petitioner on the temporal region and the parietal region. He submits that it was the complainant side, which was the aggressor and hence, implication of the petitioner is totally false and frivolous. He submits that in all, there are four accused in the FIR lodged against the petitioner, out of which, rest of the three accused have already been enlarged on bail. He further submits that the complainant side being an aggressor and the petitioner having suffered injuries, falsify the case of the prosecution. He submits that the investigation in this case is already complete; challan already stands presented and charges have also been framed. Hence further incarceration of the petitioner is totally unwarranted.

Learned counsel for the complainant has opposed the submissions made by learned counsel for the petitioner. He submits that the petitioner side was aggressor and not the complainant. He has submitted that

there are specific allegations against the petitioner and the injuries which he has caused, were declared dangerous to life and hence, the petitioner does not deserve the concession of bail.

Learned State counsel has submitted that it is a case of version and cross version. He submits that the petitioner has attributed the injuries, which were declared dangerous to life and that the petitioner also suffered injuries in the occurrence. He submits that the investigation is already complete and charges have been framed. The case is fixed for recording of evidence. DDR No.12 was recorded on 29.11.2020 and the FIR was lodged on 09.12.2020.

I have heard learned counsel for the parties and perused the records.

Admittedly, the present case is of version and cross-version. Both the parties suffered injuries. The petitioner himself has suffered injuries during the fight. This Court would refrain itself from commenting anything on the merits of the case and the allegations and the counter-allegations would be evaluated by the trial Court to decide which party was the aggressor. Out of total four accused, rest of the three accused are already on bail. The injuries suffered by injured Dharmender were shown to be lacerated as per the MLR and the same were declared dangerous to life from the hospital in Jaipur on 29.01.2021. The veracity of the allegations and counter-allegations is to be assessed by the trial Court. In the overall facts and circumstances of the case, it is apparent that the trial of the case will take sufficient time and no useful purpose will be served by keeping the

petitioner in custody for such a long time. Keeping in view the abovesaid facts, this Court finds that learned counsel for the petitioner has succeeded in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

18.04.2022

gurpreet

**(RAJESH BHARDWAJ)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No