

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

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CRM-M-19750-2022

Date of Decision: 16.05.2022

Balraj Singh @ Baji

.....Petitioner

V/s.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. ADS Rai, Advocate for the petitioner

Mr. Davinder Bir Singh, DAG Punjab

JASGURPREET SINGH PURI, J. (Oral)

The present third petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.292 dated 22.11.2018 under Sections 307/323/325/148/149 IPC registered at PS City Jagraon, Distt. Ludhiana.

It has been submitted by learned counsel for the petitioner that the petitioner is in custody since 13.07.2020 which is more than 1 year 10 months and the charges in the present case were framed on 25.11.2021 and thereafter a number of times, the prosecution witnesses were summoned but they did not appear before the learned trial court despite non-bailable warrants being issued against them. He referred to zimni orders passed by the trial court (Annexures P5 to P7) and vide Annexure P5 dated 10.03.2022, it was observed by the trial court that no PW was present and bailable warrants issued to witnesses Devraj, C Lakhvir Singh and Kamaljeet Khanna and ASI Harmesh Kumar were not received back and therefore fresh bailable warrants of the abovesaid witnesses were issued. Thereafter, again on 28.03.2022, it was observed that the bailable warrants issued against Devraj and Kamaljeet Khanna were received

back served but they were not present. Therefore, afterwards, they were summoned through non-bailable warrants of arrest for 12.04.2022. Bailable warrants were issued to C Lakhvir Singh and ASI Harmesh Kumar not received back. Fresh bailable warrants of these witnesses were issued. Thereafter on 12.04.2022, no PW was present and the official witnesses who were police officials were summoned through bailable warrants and complainant Devraj and Kamaljeet Khanna were again summoned through non-bailable warrants and because of delay on the part of the prosecution itself, the petitioner has faced incarceration for about 1 year and 10 months.

Learned counsel further submits that the petitioner was not named in the FIR and on the basis of supplementary statement, he was arrested. He further submits that the allegation against the petitioner was that he along with other co-accused had given blow of baseball bat on jaw and he referred to MLR (Annexure P2) of injured Devraj which shows that there were some injuries on the jaw of the complainant and also on the face for the purpose of fracture, the matter was referred for opinion regarding x-ray. Regarding x-ray report (Annexure P4), it states that no evidence of fractures is noted in visualized osseous structures and therefore, there was no fracture on the jaw of the complainant. He submits that the complainant and the other eye witnesses including the official witnesses are deliberately not deposing before the trial court despite bailable and non-bailable warrants were issued to them. The petitioner has clean antecedents and is not involved in any other case.

Learned State counsel states that it is correct that the petitioner is in custody since 23.07.2020. He submitted that it is correct that the petitioner is not involved in any other case. However, he has opposed the grant of bail on

the ground that the matter is serious in nature whereby the petitioner caused grievous injuries.

I have heard learned counsel for the parties.

The petitioner is in custody since 23.07.2020 and charges were framed on 21.02.2021 and thereafter despite issuance of repeated summons and bailable and non-bailable warrants being issued against PWs, nobody has appeared and as a result, the petitioner has faced incarceration for 1 year and 10 months. As per the learned counsel for the parties, he is not involved in any other case and as per x-ray report, there is no fracture on the jaw of the complainant.

Therefore, considering the facts and circumstances of the present case, this Court deems it appropriate to grant bail to the petitioner.

Accordingly, the present petition is allowed and the petitioner is granted regular bail on furnishing adequate bail/surety bonds to the satisfaction of the learned trial court/CJM/Duty Magistrate concerned.

It is made clear that the aforesaid observations would not mean anything on the merits of the case, as the same are only for the purpose of deciding the present petition.

(JASGURPREET SINGH PURI)
JUDGE

16.05.2022

V. Vishal

<i>Whether speaking / reasoned</i>	:	<i>Yes /No.</i>
<i>Whether Reportable</i>	:	<i>Yes/No</i>