

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-26173-2022 (O & M)

Date of decision: 08.07.2022

Dhira

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Vikram Singh, Advocate, for the petitioner.

Mr. Gurbir Singh Dhillon, Addl.A.G., Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in case FIR No.432 dated 06.11.2021 under Sections 323, 506 and 34 IPC and Section 307 IPC (added later on) registered with Police Station Gandhi Nagar, District Yamunanagar, Haryana.

The brief facts of the case are that Ashok Kumar son of Manohar -complainant got recorded his statement to the effect that on 04.11.2021 at about 5.30 p.m., some people had come to his *basti* to distribute food items in connection with the celebration of Diwali. Some guests had come to the house of Vakila wife of Sunder, who lived in the neighbourhood and some guests had also come to the house of Ramesh @ Bhaku, who had consumed alcohol, was in the house of Vakil and Ramesh @ Bhaku. The guests came and attacked them by picking up a bicycle parked on the road and threw it on the children, who barely survived. When

the complainant asked the reason for throwing the cycle at the children, they

started fighting. Then, Dhira (petitioner) grabbed a stick in his hand and hit the son of the complainant, namely, Karan on the head and Bittu alias Billa and 10/12 boys beat up Karan and Mangal Bai, Sunita with sticks and Karan's arms and waist and head were badly injured. Based on this statement, the FIR came to be registered.

The learned counsel for the petitioner contends that no overt act has been attributed to the petitioner except that his name has been mentioned in the FIR. The injuries inflicted to Karan are by a group of unnamed persons, though, the petitioner has been singled out. He contends that the FIR was initially registered under Sections 323, 506, 34 IPC and Section 307 IPC had been added later on and Bittu alias Billa against whom there are specific allegations, has been exonerated by the police. It is further contended that the petitioner is in custody since 02.12.2021 and the challan already stands filed and only 05 prosecution witnesses have been examined out of 13 cited in the list of witnesses. It was lastly contended that the complainant-Ashok Kumar was deliberately not appearing in the Court to depose in the matter. A reference has been made to the orders of the Trial Court dated 14.03.2022, 19.04.2022 and 19.05.2022.

The learned counsel for the State, on the other hand, contends that the petitioner is named in the FIR and is one of the main assailants. The injury attracting Section 307 IPC has been attributed to the petitioner, and therefore, the petitioner does not deserve the concession of bail, though, he admits the fact that Ashok Kumar-complainant has not been examined till date as he has not come present before the Trial Court.

I have heard the learned counsel for the parties at length.

Admittedly, the petitioner is in custody since 02.12.2021. The challan already stands filed and some witnesses have also been examined.

The injured-Karan had suffered three injuries one of which was declared to be dangerous to the life but his current medical condition is stable and no permanent or temporary disability has been suffered by him. Besides, the complainant-Ashok Kumar has also not appeared before the Trial Court for getting his statement recorded.

In view of the above, the further incarceration of the petitioner is not required. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Dhira, is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

(JASJIT SINGH BEDI)
JUDGE

July 08, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No