

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-27916-2022(O&M)

Date of decision : 15.12.2022

Surender

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

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

Mr.Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is the second petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.253 dated 04.07.2021 registered under Sections 148, 149, 307, 323, 452, 506 IPC (Section 307 IPC added later on) at Police Station Kalanaur, District Rohtak.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 16.08.2021 and the investigation is complete and the challan has already been presented and there are 23 witnesses, out of which, none have been examined and thus, the trial is likely to take time and the petitioner is not involved in any other case. It is submitted that the present case is a case of version and cross-version and as per the cross-version recorded by Rajinder, who is the brother of the present petitioner, was from the side of the petitioner, has specifically alleged that the complainant in the present FIR had taken the mobile phone

dispute between the complainant party and the accused persons, who were all related to each other and said Rajinder belonging to the side of the present petitioner had suffered injuries including the one due to which his tooth broke and the said injury has been declared to be grievous. It is further submitted that the FIR in the present case has been got recorded by Raj Bala, who is the wife of Radhey Shyam, who is also a brother of the present petitioner and although as per the FIR, the petitioner has been attributed injuries on the head of said Raj Bala and other injuries on her hands with a wooden stick and the said injuries have attracted Section 307 IPC but it is the complainant party who were the aggressors in the present case. It is further submitted that the petitioner had earlier filed regular bail application which was withdrawn on 29.03.2022 with liberty to file a fresh petition after examination of the complainant but in spite of the lapse of more than 8 months from the passing of the said order, the complainant has still not been examined on account of there being a stay operating in the proceedings as the co-accused Ramavtar, Nitin, Ritik, Vikas and Sushila @ Babli had filed a criminal revision in the Court of Additional Sessions Judge, Rohtak against the order dated 28.07.2022 vide which the said five persons had been summoned as co-accused in the present case although they were found to be innocent by the police. Reference has also been made to the zimni orders to show that the trial has not made much progress after 29.03.2022 and the stay in the aforesaid revision petition is still continuing. It is submitted that in such a situation, there were sufficient circumstances so as to entitle the petitioner to file the present second regular bail petition.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that that three persons

have been injured in all and the complainant Raj Bala had suffered various injuries, including injuries on the head which have been attributed to the present petitioner and on account of which Section 307 IPC has been attracted. The other facts have however, not been disputed.

This Court has heard learned counsel for the parties and has perused the paper book.

Keeping in view the above said facts and circumstances moreso, the fact that the petitioner has been in custody since 16.08.2021 and the investigation is complete and the challan has already been presented and there are 23 witnesses, out of which, none have been examined and thus, the trial is likely to take time and the petitioner is not involved in any other case and also the fact that the present case is a case of version and cross-version and even Rajinder, who had got the cross-version recorded from the side of the petitioner, had suffered injuries including one grievous injury and also the fact that the parties are all related to each other and the question as to who was the aggressor, would be determined during the course of the trial, 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 and subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently

of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

Pending miscellaneous applications stand disposed of in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

December 15, 2022
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No