

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

214

CRM-M-29208-2022

Date of Decision: 15.07.2022

GURSEWAK @ SEBI

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Virat Rana, Advocate
for the petitioner.

Mr. Amit Aggarwal, DAG, Haryana.

Mr. Rajwant Singh Chahal, Advocate
for the complainant.

VINOD S. BHARDWAJ, J. (ORAL)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case bearing FIR No.111 dated 01.05.2022 under Sections 148, 149, 307, 323, 324, 452 and 506 of the Indian Penal Code, 1860 (later on Sections 325 and 120-B of the IPC were added) registered at Police Station Sadhaura, District Yamuna Nagar.

The brief facts of the case are to the effect that on 01.05.2022, ASI Mukesh Kumar, received a telephonic information that 8-10 boys had come to village Sultanpur on two vehicles and after causing injuries to the complainant Kamaljeet Singh @ Kama had fled away from the spot. When the police party reached the spot, they came to know that the injured has been shifted to hospital. As per the MLR, 15 injuries were reported on the person of the injured, out of which injury No.5 was shown to be caused by

sharp edged weapon, injury no.15 could not be ascertained and rest of the injuries were shown to be caused by blunt weapon. Thereafter, the FIR in question was recorded on the statement of the injured Kamaljeet Singh @ Kama, who stated in his statement that he has elder brother, who is married whereas he is unmarried. About 10/15 days ago, a scuffle had taken place between him and Ricky son of Gian Chand resident of Kanipla with regard to money transaction, who had threatened to see the complainant in future. On 01.05.2022, Ishaq Khan called him telephonically at the village dairy. Complainant reached there on his motorcycle make "TVS Sports" without number and sat inside the grocery shop of Madan near Village Dairy. At about 11.00 AM, two vehicle came and stopped in front of the shop of Madan and 8-10 boys armed with danda, binda, sword and iron pipe etc. alighted therefrom. The complainant tried to flee, but the assailants entered the grocery shop with their respective weapons and opened attacked on the complainant while he was laying on the ground. The assailants gave injuries to the complainant with an intention to kill him. Ricky and his associates inflicted injuries on the head of the complainant with their respective weapons. The complainant started bleeding and as such, he raised alarm. Upon hearing his cries, several persons gathered at the spot as a result whereof, the assailants fled away from the spot while extending threat to the complainant to kill in future. The complainant identified one of the vehicle as Thar and also noted down the registered number of the same as HR-01AB-0071. According to him, another vehicle was a car make Maruti Rits.

On the basis of this statement, the present FIR was registered and upon investigation, the accused therein including the petitioner herein were arrested.

Learned counsel for the petitioner contends that the petitioner has not been attributed any injury on the victim/injured and that as per the investigation conducted by the investigating agency, the petitioner was only preparing the video of the incident in question from his mobile and the same was forwarded further. He contends that the mobile phone has already been recovered by the investigating agency and as such the custodial interrogation of the petitioner is no longer required and would not advance any interest of justice.

Learned State counsel could not controvert the aforesaid assertions, however, he vehemently opposed the prayer made by the learned counsel for the petitioner on the ground that the petitioner has played an active role in the commission of offence alongwith the other co-accused persons.

Per contra, Mr. Rajwant Singh Chahal, Advocate has appeared and filed power of attorney on behalf of the complainant. He strenuously argues that the petitioner was present at the spot at the time and place of occurrence and Section 120-B of the IPC having been attracted, the participation of the petitioner in the commission of crime is very much apparent. He further submits that he has a video, in which the petitioner can be seen instigating the assailants to attack on the injured.

I have heard the learned counsel for the respective parties and have gone through the record available on record.

So far as the submissions of the learned counsel for the complainant are concerned, the aspect with regard to the instigation on the part of the petitioner is not indicated in the case of prosecution itself.

Apparently, the allegations against the petitioner are to the effect that he had

videographed the incident in question and had not caused any injury to the victim. It is further noticed that there are no criminal antecedents of the petitioner and that he is not involved in any other case.

Taking into consideration, the circumstances noticed above as well as the period of custody already undergone by the petitioner, his age, stage of trial investigation and his clean antecedents, I deem it appropriate to allow the instant petition.

Accordingly, the present petition is allowed and the petitioner is admitted to regular bail subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate, concerned.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

Petition stands allowed accordingly.

15.07.2022
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No