

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

222

CRM-M-31294-2022 (O&M)
Date of decision:26.07.2022

BHAWANI KATOCH ALIAS BANI

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

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

Present : Mr. Vishal Munjal, Advocate for the petitioner.

Ms. Amarjit Kaur Khurana, DAG, Punjab.

VINOD S. BHARDWAJ. J. (ORAL)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.17 dated 14.05.2022, under Sections 324, 323, 379B, 427, 148, 149 of the Indian Penal Code (45 of 1860) (Sections 326 and 307 of the Indian Penal Code added later on) registered at Police Station Nangal Bhoor, District Pathankot.

The brief facts of the prosecution case are that the present FIR has been registered on the statement of complainant Akhil Salaria son of Ranjit Singh, resident of Dhaki Nimo, Police Station Dinanagar on the allegations that he is serving in Punjab Police Department. On 13.05.2022 he along with Ankush Sharma son of Rakesh Kumar , resident of Dala Bhola , Police Station Behrampur , District Gurdaspur and Sahil son of Pawan Kumar , resident of Chashma Jakror , Police Station Sadar Pathankot , who

is also serving in Punjab Police Department came at Aman Dhaba Jai Hind Market Nangal for eating food, then at about 10:30 PM, five persons came at Aman Dhaba, whose name they came to know later on as Mohit Jogi son of Raj Kumar, resident of Naaglia Chak, Police Station Damtal , District Kangra (HP) , Kishan Singh aka Aindi Kundi son of Ramesh Singh , resident of Bari , Police Station Damtal , District Kangra (HP) , Sajan son of Ramesh Kumar , resident of Kandrori , Police Station Damtal , Vishal son of Amarjit , resident of Naaglia Chak , Police Station Damtal , District Kangra (HP) and Vicky Bhaiya , who is working in the shop of Sajan Kabadia at Kandrori and all these persons were in drunkard condition and they started raising raula. Then Sahil received a phone call and he informed the aforesaid persons that he has to attend the phone call and requested them not to make noise. Then the aforesaid persons started giving abuses to them and the Dhaba owner made them understand and sent them away. After some time Mohit Jogi armed with datar, Kishan Singh armed with datar , Sajan armed with datar , Vishal armed with datar , Vicky Bhalya armed with datar and along with 4-5 unknown persons, who were armed with dangs and baseball came at Dhaba. And Mohit Jogi while coming raised lalkara to catch hold of the complainant party and that they should not go. Then Vishal gave straight datar blow upon Sahil, which hit him on his left eyebrow. When Sahil stepped back, then Mohit Jogi continuously gave two straight datar blows upon Sahil, which hit him on his right thigh and left wrist. When Ankush Sharma came forward to rescue Sahil, then Vicky Bhaiya gave two datar blows upon Ankush Sharma, which hit him on his right hand and in the middle finger of his right hand. When the complainant went forward to save

the said persons, then Kishan Singh gave reverse side of datar blow upon him, which hit on his left arm and right biceps. Then Kishan Singh gave datar blow upon Sahil, which hit on his upper lip towards right side and on the wrist of left hand. Then Vishal gave straight datar blow upon Sahil, which hit on the Chin of his left lip and in his abdomen. When Ankush Sharma came forward to rescue Sahil, then Mohit Jogi gave two blows of reverse side of datar upon Ankush Sharma, which hit him on his left and right arms and Ankush Sharma fell down. Then Mohit Jogi gave straight datar blow upon Sahil, which hit him on his left knee. Thereafter, three unknown persons gave three baseball bat blows upon Sahil, which hit on his chest and left foot and on the index finger of left hand and Sahil fell down. When complainant went forward to save Sahil, then Mohit Jogi gave two reverse side datar blows upon him, which hit on his left wrist and right in middle finger. Then Sajan gave reverse side of datar blow upon him, which hit him above his left lip. In the meantime many people gathered there and Sajan snatched the gold chain from his neck. All the aforesaid assailants damaged the articles lying on the Dhaba and while leaving they have taken about Rs.35000/- from the counter of the owner of Dhaba forcibly. On hearing alarm, the aforesaid assailants along with weapons ran away. After arranging the conveyance by people, the complainant reached at Civil Hospital Gharota and due to serious condition of Sahil and Ankush Sharma they were taken to Civil Hospital Pathankot. The complainant was treated by the Doctor at Gharota and MLR's were conducted.

Learned counsel for the petitioner has contended that the petitioner has been nominated as an accused on 15.05.2022 on the basis of

the statement of Aman Kumar, the owner of dhaba who is stated to have identified the petitioner to be present at the spot and causing injuries by hurling brickbats. He further contends that no person has sustained any injury as a result of any brickbat and that he was not named in the initial version. He has also not been attributed any injury to any person specifically. Besides, no recovery has been effected from the petitioner, who is in custody since 19.05.2022 and has already undergone an actual custody of 02 months and 07 days.

Learned State counsel does not dispute the fact that the petitioner was not named in the FIR and that no recovery has been effected at the disclosure of the petitioner. Furthermore, she also does not dispute the fact that no person has sustained any injury as an impact of a blow by the brickbat. The matter is still under investigation and the same is likely to take some time.

I have heard learned counsel for the respective parties. Taking into consideration the facts noticed above, the age of the petitioner, the stage of investigation, the attribution against the petitioner, absence of any injury attributable to the petitioner and also his not being named in the FIR as well as the period of actual custody, I deem it appropriate to enlarge the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted to regular bail subject to his furnishing bail bonds/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 observation 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.

(VINOD S. BHARDWAJ)
JUDGE

26.07.2022
Amandeep

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