

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(229)

CRM-M-33547-2022
Date of Decision: 20.10.2022

Mahesh Gupta

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mrs. Sanjana Gupta wife of petitioner
in person.

IO HC Gurinder Singh in person.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in DDR No.45 dated 11.4.2022 registered under sections 323, 451, 506, 149 IPC (Section 307 IPC was added later on) at Police Station, Jamalpur lodged in FIR No.74 dated 5.4.2022 under sections 323, 341, 506, 34 IPC (sections 354, 354-B IPC were added later on) registered at Police Station, Jamalpur, District Police Commissionerate, Ludhiana.

As per factual matrix, the present case is of version and cross-version. The occurrence in question took place on 4.4.2022 at about 8 AM. The FIR was lodged on the statement of Mahesh Gupta i.e. the petitioner, wherein it was alleged that he is running a Maniari shop in his house and on 4.4.2022 at about 8 AM Shiyam resident of their mohalla was putting on fire the garbage in front of the door of his shop. On his resistance a scuffle took place between both the sides and Shiyam brought an iron datar and gave a blow of the same on the head of the complainant/petitioner Mahesh

Gupta. On seeing the public gathering on spot Shiyam ran away from the spot. Thereafter, petitioner was admitted to civil hospital for medical treatment. In the evening at about 7 PM when the petitioner/complainant Mahesh Gupta was sitting in his shop then Shiyam along with 2-3 persons came into the street and started threatening the petitioner and his wife and when they tried to pacify him he got annoyed and gave Datar blow on the left arm of the petitioner and also dragged his wife Sanjana Gupta and gave beatings to her. Complaint was lodged to take legal action against the culprits.

Thereafter, cross-version of the incident i.e. DDR No.45 dated 11.4.2022 was lodged on the complaint of Urmila wife of Shiyam, wherein it was alleged that her husband was running a Maniari shop in the street, where Mahesh Gupta was also running a Maniari shop in front of their shop. It was alleged that on 4.4.2022 at about 7 AM a scuffle took place between her husband Shiyam and Mahesh Gupta and Mahesh Gupta and his wife started abusing her husband. As the scuffle took an ugly turn, Mahesh Gupta armed with a baseball bat came to their shop along with his wife Sanjana Gupta and started beating his husband and gave a blow on the head of her husband and caused serious injury on his head and thereafter ran away from the spot. Thereafter she took her husband to Civil Hospital, Ludhiana from where he was referred to PGI, Chandigarh and on the same day at about 4.30 PM when she and her husband went to the shop to take some documents then Mahesh Gupta, his wife Sanjana Gupta, sister and Jija of Mahesh Gupta again gave beatings to them. A request was made to take legal action against the culprits.

On the basis of the statement, DDR No.45 dated 11.4.2022 was registered and investigation commenced. Petitioner Mahesh Gupta was arrested on 1.7.2022. He approached the court of learned Addl. Sessions Judge, Ludhiana for grant of bail, however, after hearing the parties, the same was declined vide order dated 21.7.2022. Aggrieved by the same petitioner has approached this court for grant of bail.

Since the lawyers are abstaining from work on account of a strike called by the Bar Association, wife of the petitioner Sanjana Gupta, who is also a co-accused in the present case and was granted anticipatory bail by this court, is present in person to argue the case of the petitioner. She has vehemently contended that the petitioner has been falsely implicated in the present case. She submits that the bone of contention between both the families is that they are having the same business of running Maniari shops in the same locality, due to which opposite party is nurturing a grudge against them. She submits that the opposite party in order to restrain them to run their business has clandestinely implicated her husband Mahesh Gupta and herself in a false case. It is submitted that on 4.4.2022 initially they were beaten by the complainant side and they got lodged FIR No.74 dated 5.4.2022 against them. She submits that the petitioner was admitted in the hospital and she was also medically examined. She further submits that after an unexplained delay of seven days DDR No.45 dated 11.4.2022 was registered against them on the basis of false and frivolous allegations. She submits that the alleged injuries in the complaint have been fabricated and were never reported immediately. She further submits that on the same very day i.e. on 4.4.2022 again the

complainant side came along with a number of persons and attacked them in the evening as well. She further submits that the complainant side was arrested, however, they were granted bail and despite that they did not mend their ways and again caused injuries to her due to which another FIR No.247 dated 2.10.2022 was registered against them. It is submitted that the complainant side has been arrested in the second FIR and they are still behind bars. It is submitted that the complainant side was the aggressor party and the petitioner has been falsely implicated in the present case. She submits that her husband has no criminal antecedents and hence he deserves to be granted the benefit of bail.

On the other hand, IO HC Gurinder Singh is present in person and submits that both the parties have registered cross cases against each other. He submits that there are specific allegations against the petitioner. It is submitted that after the occurrence a Ruka was received from the complainant side on 7.4.2022 and on the basis of the same complainant was medically examined and DDR No.45 dated 11.4.2022 was registered. It is further submitted that on the basis of the medical opinion of the doctors offence under section 307 IPC was added. It is submitted that investigation in both the cross cases has been completed and challan already stands presented and the case is fixed for framing of charges before the learned Trial Court on 26.10.2022. IO submits that petitioner has no criminal antecedents.

I have heard both the sides at length and have gone through the records carefully.

Admittedly, this is a case of version and cross-version. On the basis of the allegations FIR was registered and then after about a week

present DDR was registered against the petitioner side. Co-accused Sanjana Gupta, who is present in person has already been granted bail by this court in CRM-M-29750-2022. The complainant side has also been booked in another FIR for the second occurrence and they are behind bars for the same. There is nothing on record to show that petitioner has any criminal antecedents. The investigation in the case already stands completed and the case is fixed for framing of charges on 26.10.2022. It is in the domain of the Trial Court to ascertain which party was the aggressor, after appreciation of the evidence adduced on record. The veracity of the allegations levelled against the petitioner would be assessed by the Trial Court only upon conclusion of the trial. This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence to be led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to the satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

20.10.2022

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No