

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-34271-2022 (O & M)****Date of decision: 09.08.2022**

Shiva @ Shubham

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Naresh Paul Chandel, Advocate, for the petitioner.

Mr. Sidakmeet S. Sandhu, AAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.49 dated 06.03.2022 under Sections 323, 341, 307, 148, 149 IPC and Section 325 IPC (added later on) registered with Police Station Division No.5, Ludhiana.

The present FIR came to be registered at the instance of Sukhdev Singh, who stated that he was a senior citizen. On 05.03.2022 at about 9.00 p.m. on the way to home, when he stopped his car and ordered eggs from a cart standing at the turn of the *gali*, he found that some persons were teasing a woman. On humanitarian ground, when he got down from the car and stopped them from doing so, these above-mentioned persons went away and came back with their friends and there was one woman amongst them. Looking at their conduct, he tried to slip out but they stopped him, surrounded him and the person who was teasing the woman was one Monti Bhagat. He took out some sharp edged article from his

second blow struck him below the right eye. Then he (Monti Bhagat) exhorted his co-accused by calling him Shiva (the present petitioner), on which the person named Shiva gave him a blow with baseball somewhere near his (complainant's) head. Thereafter, Monti Bhagat, Shiva and the woman who had accompanied them came to the spot alongwith other 6-7 persons threw him on the ground and beat him up with fist blows and blunt weapons with an intention to kill him. Appropriate legal action was sought.

The learned counsel for the petitioner submits that the petitioner has been attributed injury on the head but no such injury was found on the person of the complainant. Injuries No.2 to 4 have been found to be simple and only injury No.1 has been found to be grievous as per the MLR (Annexure P-1). He contends that the petitioner is in custody since 07.03.2022, the investigation stands completed and since none of the 12 prosecution witnesses have been examined, the trial is not likely to be concluded in the near future. He, thus, seeks the concession of bail to the petitioner.

The learned State counsel, on the other hand, contends that the petitioner (Shiva) is one of the main accused alongwith Monti Bhagat. The manner in which the occurrence took place, does not entitle the petitioner to the grant of bail. He, however, does not dispute the period of custody undergone by the petitioner as also the fact that the injury attracting Section 326 IPC is attributed to his co-accused.

I have heard the learned counsel for both the parties.

Admittedly, the petitioner is in custody since 07.03.2022. The investigation is complete and none of the 12 prosecution witnesses has been examined so far. It would be a matter of adjudication during trial as to

is, in fact, there. In view of the fact that none of the prosecution witnesses has been examined, the trial of the case is not likely to be concluded in the near future, therefore, 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, Shiva @ Shubham, is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

(JASJIT SINGH BEDI)
JUDGE

August 09, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No