

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

212

**CRM-M-36202-2022 (O&M)
Decided on : 23.08.2022**

Uditanshu @ Anshul

. . . Petitioner(s)

Versus

State of Punjab

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Salil Dev Singh Bali, Advocate
for the petitioner(s).

Mr. J.S. Arora, DAG, Punjab.

SANJAY VASHISTH, J. (Oral)

This is the first petition filed under Section 439 Cr.P.C., vide which petitioner is seeking the concession of regular bail in case FIR No. 25, dated 29.03.2021, lodged under Sections 307, 323, 34 of IPC (charges framed by the trial Court under Sections 307, 325, 323 of IPC) registered at Police Station Cantt. Ferozepur, District Ferozepur, Punjab (annexed as Annexure P-1).

Learned State counsel has filed the custody certificate dated 22.08.2022 of the petitioner in Court today. Same is taken on record, subject to all just exceptions.

A copy thereof has also been handed over to the counsel for the petitioner.

Counsel for the petitioner submits that on the basis of statement of injured/complainant – Kamal Kant s/o Rajinder Parshad, aforementioned FIR was registered. During investigation, of the case, it was found that co-accused Varinder is juvenile, who is facing proceedings separately and

another co-accused Saurav, could not be arrested. It is the petitioner only, who is challaned accused in the present proceedings and against him, charges were framed on 17.09.2021. Counsel for the petitioner further submits that as per the FIR (P-1), petitioner has been attributed with specific injury inflicted upon the injured/complainant – Kamal Kant as well as another injured Dheeraj. But said version is a concocted one, as the FIR is belated in time.

Counsel for the petitioner further submits that the material witnesses namely Kamal Kant, who is injured/complainant, appeared as PW-2 and has been turned hostile on account of not identifying the petitioner as accused in the present case. Secondly, Parmod Kumar, who has been cited as eyewitness and appeared as PW-2, also failed to identify the petitioner and was thus, declared hostile. Same is the situation *qua* another injured eyewitness i.e. Dheeraj, who appeared as PW-4 and failed to identify the petitioner and was accordingly turned hostile. It is also submitted by the counsel for the petitioner that in the FIR version, nowhere, it has been mentioned that the persons, who attacked upon the injured/complainant had muffled their faces.

Counsel for the petitioner further submits that out of 27 prosecution witnesses, only 10 prosecution witnesses have been examined and thus, trial will take long time in completion, whereas, petitioner is in custody since 09th April 2021, having completed 01 year, 04 months and 13 days custody as on 22.08.2022. There is no other case registered against the petitioner of similar nature, except one, which is mentioned in the custody certificate, except one under the Prisons Act.

Per contra, learned State counsel submits that prosecution

relied upon the list of total 27 prosecution witnesses, but only 22 prosecution witnesses are to be examined and out of which, 10 prosecution witnesses have already been examined. He further submits that it is a case of serious nature because the petitioner is the main accused, who caused the injury with iron rod, which proved fatal and thus, he is the main accused and does not deserve the concession of bail.

After hearing submissions from both the sides and perusing the relevant material on record, I find it a fit case to grant the concession of bail to the petitioner, because the main evidence of the prosecution i.e. injured/complainant and injured witnesses, have been examined and they have not supported the case of the prosecution in its entirety. Any other deposition, if any, would be analyzed/appreciated by the learned trial Court at the final stage of the trial while deciding the fate of the case and that would take considerable time, because about 12 prosecution witnesses are yet to be examined as submitted by the learned State counsel.

This Court is conscious of the fact that main prosecution witnesses have turned hostile, who have failed to identify the petitioner of causing any injury or even his presence at the spot, coupled with the fact that as per the custody certificate, already 01 year, 04 months and 13 days imprisonment has been completed till 22.08.2022 and still the petitioner is in custody. Trial is unlikely to conclude in the near future. Thus, in the facts and circumstances, as enumerated hereinabove, this Court deems it a fit case to extend the concession of bail to the petitioner. Hence, petitioner is directed to be released on bail, subject to furnishing of bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

Petition stands allowed.

It is, however, made clear that any observation made hereinabove shall not be construed as an expression of opinion on the merits/facts of the case.

(SANJAY VASHISTH)
JUDGE

August 23, 2022
J.Ram

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