

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-39771-2022(O&M)

Date of decision : 07.09.2022

Chote Lal

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.D.S. Matya, Advocae
for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

CRM-32365-2022

This is an application filed for grant of leave under Rule 3-A(i) of Chapter VI, Part B, Volume V of Punjab and Haryana High Court Rules and Orders to file the present petition.

In view of averments made in the application, the same is allowed and leave is granted under the aforesaid Rules and Orders to file the present petition.

CRM-M-39771-2022

This is a petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.97 dated 11.03.2021 registered under Sections 307, 323, 34 IPC at Police Station Sector 9A, Gurugram, District Gurugram.

Learned counsel for the petitioner has submitted that the

involved in any other case. It is submitted that the alleged incident has taken place on 08.03.2021 and the FIR had been registered after a period of 3 days, i.e. 11.03.2021. It is further submitted that in the FIR itself, the complainant has admitted that the injured, who was the son of the complainant, used to consume liquor and even on 08.03.2021, he was smelling of liquor. It is also submitted that as per the medico legal report dated 09.03.2021, it had been stated therein that the injured Lokesh had fallen from the stairs on 08.03.2021 at 10:00 PM and was an alcoholic and was disoriented when he reached the hospital. It is stated that after a delay of 2 days, the complainant had given a false version on the basis of which the FIR was registered on 11.03.2021. It is further stated that the concerned doctor in the present case has been examined as PW-11 and in his evidence filed by way of affidavit (at page 25 of the paper book) he had also reiterated the fact as mentioned in the medico legal report regarding the information disclosed by the attendant to the effect that the patient (Lokesh) had fallen from the stairs. It is also argued that the injured Lokesh has been examined as PW-8 and in his examination-in-chief he had stated that the said Lokesh had asked the petitioner to get liquor and when the petitioner got liquor, on account of delay, the said Lokesh had slapped the present petitioner upon which a scuffle had taken place. It is submitted that the material witnesses have been examined and thus, the question of influencing or threatening the witnesses does not arise.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that it is the present petitioner, who had inflicted an injury with the stick on the head of injured Lokesh and on account of the same, Section 307 IPC had been added and

even the stick has been recovered from the present petitioner and the said injury was declared to be dangerous to life.

Learned counsel for the petitioner, in rebuttal, has submitted that the complainant had been discharged from the hospital and is in a fit condition.

This Court has heard learned counsel for the parties and has perused the paper book.

The petitioner has been in custody since 02.06.2021 and is stated to be not involved in any other case. The alleged incident is stated to have taken place on 08.03.2021, whereas the FIR was registered after a delay of 3 days, i.e. 11.03.2021. In the FIR itself, the complainant, who is the father of the injured Lokesh, had stated that his son used to consume liquor and even on 08.03.2021 he smelled of alcohol. A perusal of the MLR dated 09.03.2021 would show that in brief history it had been mentioned that the injured Lokesh had fallen from the stairs on 08.03.2021 at 10:00 PM and was an alcoholic and had reached the hospital in an unconscious and disoriented state. The concerned doctor had appeared as PW-11 and had also reiterated the said fact in his examination-in-chief via evidence given by way of affidavit. The injured had been examined as PW-8 and in his examination-in-chief, he had stated that he had asked the petitioner to get liquor and when the petitioner got liquor after some delay, the injured got anguished and had slapped the present petitioner and on the said account, a fight had taken place in which the injured Lokesh suffered one injury, which was inflicted with the stick and has been attributed to the present petitioner and was declared dangerous to life. The material witnesses have already been examined, thus, the question of the petitioner influencing and

threatening the witnesses does not arise.

Keeping in view the above said facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

September 07, 2022
Davinder Kumar

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