

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

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**CRM-M-40334-2022
Decided on : 15.09.2022**

Raj Kumar

. . . Petitioner(s)

Versus

State of Haryana

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. R.S. Mamli, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

SANJAY VASHISTH, J. (Oral)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioner – Raj Kumar, who has been booked for having committed the offences punishable under Sections 332, 326, 333, 353, 397, 201, 34 of IPC 1860, in FIR No. 0312, dated 02.06.2022, registered at Police Station City Sohna, District Gurugram, during the pendency of trial.

Learned counsel for the petitioner contends that the alleged incident has happened in the premises of the petitioner, where, ALM Jitender had come to install the electricity meter. Learned counsel for the petitioner further contends that being a Government official, police has concealed real facts and a concocted version has been prepared. It is a simple dispute of exchange of hot words between two sides resulting into some injuries. But none of the injury is serious or dangers to life.

Learned counsel for the petitioner submits that petitioner (Ajay) and his son (Sandeep), both have been dragged in the case and the present petition has been filed only on behalf of the petitioner – Ajay (father of

Sandeep). He further submits that Section 326 of IPC is not attracted in the matter, because as per MLR dated 02.06.2022 (shown to the Court during the course of arguments), there is no injury described as incise wound or sharp edge wound. The hairline fracture over the nose can be an injury because of blunt weapon. Learned counsel for the petitioner further contends that after completion of investigation, challan has been presented in the case and petitioner is inside jail since the time of registration of FIR i.e. 02.06.2022. He further submits that there are fairly arguable points during the course of the trial showing the innocence of the petitioner. He further submits that, further incarceration of the petitioner is not worth in this case.

Per contra, learned State counsel while strongly opposing the arguments raised by learned counsel for the petitioner, submits that incident is serious in nature because a Government employee from Electricity Department had gone to perform his duty and he has been caused injuries. Learned State counsel further submits that Section 397 of IPC is attracted in the instant case, because some of the Government files and four electricity meters were snatched by the accused from the possession of the victim.

Learned State counsel further submits that minimum sentence under Section 397 of IPC is 07 years, therefore, petitioner does not deserve any leniency.

After considering the submissions of both the sides, and perusing the record with their able assistance and looking into the legal aspects of insertion of offences such as Sections 326 & 397 of IPC, this Court is of the view that invoking of such provisions of law, would be subject matter of trial after adducing the evidence by the prosecution. *Prima facie*, it appears that incident took place at the premises of the accused party, therefore, applicability of Section 397 of IPC is yet to be examined and there being no injury as incise or sharp edge, applicability of Section 326 of IPC, would also be a question

before the trial Court.

Be that as it may, petitioner being inside jail since 02.06.2022, is not required by the prosecuting agency for any purpose and his further incarceration is also not going to serve any purpose of either side. Accordingly, the present petition is allowed. Petitioner is ordered to be released on bail in this case, subject to his furnishing bail/surety bonds to the satisfaction of the learned Trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

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 here-in-above 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 evidence available on record.

(SANJAY VASHISTH)
JUDGE

September 15, 2022
J.Ram

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