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

**CRM-M-44997-2022
Date of Decision: 10.10.2022**

Kaku Ram @ Kaku

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Yashpal Thakur, Advocate,
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.011 dated 21.01.2019, under Sections 323, 341, 148 & 149 IPC (later on added Sections 302 & 325 IPC), registered at Police Station Kotwali Nabha, District Patiala.

It has been submitted by learned counsel for the petitioner that the petitioner is in custody for about 3 years and 9 months. He further submitted that out of total 28 cited witnesses, 8 have already been examined, who are the material witnesses. He also submitted that even as per the FIR, the allegations were that the petitioner along with some other co-accused had come to the house of the deceased and thereafter, one co-accused, namely, Sunny had inflicted iron rod blow on the deceased. He

also submitted that even as per the prosecution story, no specific injury has been attributed to the petitioner and the only role attributed was that he was holding a *Sariya* in his hand. He further submitted that similarly situated co-accused, namely, Birju @ Birju Singh, Surjan and Balvir have been granted bail by this Court vide Annexures P-4 to P-6, respectively. He also submitted that the petitioner has got clean antecedents and is not involved in any other case. He further submitted that no recovery is to be effected from the petitioner and also considering the long custody of the petitioner, he may be considered for the grant of regular bail.

On the other hand, Mr. Kunal Vinayak, learned AAG, Punjab has stated that it is correct that the petitioner has faced incarceration for about 3 years and 9 months and the injury was attributed by the co-accused, namely, Sunny. He further submitted that it is also correct that some of the co-accused have been granted regular bail by this Court vide Annexures P-4 to P-6, respectively.

I have heard the learned counsel for the parties.

The petitioner has faced incarceration for about 3 years and 9 months and all the material witnesses, which are 8 in number, according to learned counsel for the parties, have already been examined. The other co-accused, who are also stated to be part of the group, have been granted bail by this Court. A perusal of the FIR would show that the injury has been attributed to one of the co-accused, namely, Sunny. Apart from the same, it is not the case of the learned State Counsel that in case the petitioner is released on bail then he may abscond or flee from justice or may influence any witness. Therefore, in view of the aforesaid facts and circumstances,

especially long custody of the petitioner, this Court deems it fit and proper to grant bail to the petitioner.

Consequently, the present petition is allowed and the petitioner is ordered to be released on bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

10.10.2022

(JASGURPREET SINGH PURI)
JUDGE

Bhumika

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |