

**221 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-50089-2021****Date of decision : 23.03.2022****Krishan****....Petitioner****Vs.****State of Haryana****...Respondent****CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. G.S.Sandhu, Advocate for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

MANOJ BAJAJ, J.

Petitioner has filed this second petition under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.1041 dated 29.12.2019 under Sections 323, 324, 506, and 34 Indian Penal Code, 1860 (Section 307 IPC added later on) registered at Police Station City Karnal, District Karnal, who is in custody since his arrest on 11.03.2020.

The allegations as noticed by the learned Additional Sessions Judge, Karnal in the order dated 11.09.2020 are as under:

“Brief facts of the prosecution case are that on 28.12.2019 a telephonic message was received in the Police Post in respect of admission of injured Bhupender son of Ashok Kumar, resident of New Bahadur Chand Colony Karnal, who has sustained injuries in an altercation. On receiving this information, ASI Suresh Kumar reached Kalpna Chawla Government Medical College, Karnal and obtained the doctory rukka of injured Bhupender along with MLR etc. Thereafter, ASI Suresh Kumar moved an application before the Doctor sahab seeking his opinion regarding the fitness of the injured Bhupender to make his statement. On which, the Doctor sahab disclosed that the injured Bhupender was referred to higher center. Thereafter, on the same day, a

telephonic information was received from Virk Hospital, Karnal regarding the admission of the injured Bhupender in the Virk Hospital, Karnal. On which, ASI Suresh Kumar reached at Virk Hospital, Karnal and moved an application seeking the opinion of the Doctor sahab regarding the fitness of the injured to make his statement. On which, the Doctor sahab declared the injured is not fit to make statement. Thereafter, on 29.12.2019, ASI Suresh Kumar along with HC Jaswinder Singh reached at Virk Hospital, Karnal and moved an application seeking the opinion of the Doctor sahab regarding fitness of the injured to make his statement. On which, the Doctor sahab declared the injured is fit to make his statement. The complainant/injured Bhupender got recorded his statement to the police to the effect that he is residing in house no.1526, Gali No.7, New Bahadur Chand Colony, Karnal. He is doing the labour work in a shoe factory situated in Bahadur Chand Colony, Karnal. On 28.12.2019 after finishing his work, he has visited the house of his aunt (Mausi) situated at Gali no.4, New Bahadur Chand Colony, Karnal. Then at about 7.00 PM, he heard noise of some altercation outside the house of his aunt. On hearing said noise, he came out of the house of his aunt and saw that Sahil and his friend Deepu son of Mukesh, resident of Dhaka Basti, Karnal, Pala and Krishan son of Pirthi, resident of Dhaka Basti, Karnal who were already known to the complainant were fighting with each other. When the complainant tried to intervene between them, then, Krishan has caught the hands of the complainant and Pala gave a number of blows of some tool like screw driver in the left side of his back and after causing injuries to the complainant, they left the spot along with weapon of offence. However, while leaving the spot, both of them have extended threatening to kill the complainant. On receiving the information about this incident, Bunt brother of the complainant also came on the spot and shifted the complainant to Kalpna Chawla Government Medical College, Karnal where the Doctor sahab has referred the complainant to PGI Chandigarh. But keeping in view the critical condition of the complainant, the brother of the complainant got admitted the complainant in Virk Hospital, Karnal. So, legal action may kindly be taken against the culprits. On the basis of this statement, formal FIR bearing no. 1041 dated 29.12.2019 under sections 323,324/34 and 506 IPC was registered with Police Station City, Karnal. After that investigation was swung in to action.”

Learned counsel for the petitioner has argued that as per prosecution, petitioner caught hold of the injured, whereas his co-accused

caused the solitary injury to him. He submits that though the charges were framed in February, 2021, but till date no prosecution witness has been examined, therefore, the petitioner be released on bail.

On the other hand, learned State counsel assisted by ASI Raj Kumar has opposed the prayer and argued that the petitioner was with his co-accused and played active role in committing the alleged offence, however, it is not disputed that after framing of charges, no prosecution witness has been examined out of total ten witnesses. He on instructions further states that the case is now fixed for 29.03.2022 for recording the prosecution evidence before the trial Court.

Considering the above background and custody of the petitioner, this Court is of the opinion that the conclusion of trial is likely to consume considerable time, as the trial is yet to commence, therefore, further detention of the petitioner may not serve any useful purpose, who is presently confined in judicial custody after his arrest on 11.03.2020.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

The petition is allowed.

(MANOJ BAJAJ)
JUDGE

23.03.2022

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Whether speaking/reasoned :
Whether Reportable :

Yes	No
Yes	No