

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-46833-2022 (O & M)****Date of decision: 18.10.2022**

Mukesh @ Titu

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Pratham Sethi, Advocate, for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No. 432 dated 27.05.2022 under Sections 148, 149, 308, 323, 506 IPC (Section 308 IPC deleted and Sections 307, 325 IPC added later on) registered at Police Station Samalkha, District Panipat.

2. The brief facts of the case are that Madan Kumar son of Zile Singh got recorded his statement that on 26.05.2022, he alongwith 10-12 respectable persons of the village were supervising earth filling work at Gujjar Bhawan. Adjoining to it, the members of the community were also filling earth in the plot of Shamlat Pana Hinduana. Then, suddenly 7-8 persons spot using abusive language attacked him and Ravinder son of Krishan with rods, dandas and sharp-edged weapons. Ravinder suffered serious injuries and became unconscious and fell down. In the meantime,

Raj son of Bali, Monu son of Jagbir, brother-in-law of Bablu and Raju and 3-4 other persons gave blows of rods and *dandas* on him. He resisted and then the attackers over-powered him and Raju took out a pistol and tried to fire at him but the pistol did not fire. The people present at the spot intervened, saved him and the accused fled away from the spot.

3. The learned counsel for the petitioner contends that the petitioner has not been attributed any specific injury either to the complainant or to the injured-Ravinder. The allegations against the petitioner are that an injury was inflicted on the head of Ravinder by the brother-in-law of the petitioner, namely, Raju and the petitioner is also stated to have inflicted injuries while Ravinder was on the ground. He contends that the petitioner was arrested on 17.06.2022 and a recovery of an iron rod was effected from him. The challan stands presented against 06 of the accused including the petitioner while investigation against 02 of the accused is pending. He contends that since the injuries attracting Section 307 IPC have been attributed to Raju, co-accused on the person of Ravinder-injured and none of the 27 prosecution witnesses have been examined so far, the further incarceration of the petitioner is not required, moreso when the complainant-Madan Kumar and injured-Ravinder have not suffered any permanent disability and are leading normal healthy lives.

4. The learned counsel for the State, on the other hand, contends that the petitioner alongwith his co-accused and brother-in-law Raju is one of the main accused. There is a serious apprehension that if the petitioner is granted the concession of bail, he shall threaten/harm the witnesses of the present occurrence and therefore, he ought not to be granted the concession

5. The learned counsel for the complainant has vehemently opposed the bail application contending that as per the State reply submitted, there was an apprehension that if the petitioner was granted bail, he would threaten and intimidate the witnesses. Since the accused were habitual offenders and two other accused were still to be arrested, therefore the petitioner did not deserve the concession of bail.

6. I have heard the learned counsel for the parties at length.

7. Admittedly, the petitioner is in custody since 17.06.2022. None of the 27 prosecution witnesses have been examined so far and the injury attracting Section 307 IPC has been attributed to Raju, the co-accused of the petitioner. Besides, the petitioner is a first-time offender, has clean antecedents and in one other case registered against him, he stands acquitted. In these circumstances, the further incarceration of the petitioner is not required.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Mukesh @ Titu is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. In addition, the petitioner (or someone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

10. If any attempt whatsoever is made by the petitioner and/or his family members/friends to contact/threaten/intimidate any of the witnesses

of the present occurrence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.

11. The petitioner shall appear on the first Monday of every month before the local police station till the conclusion of the trial and furnish an affidavit each time that he is not involved in any crime other than the present one.

12. The petitioner shall not enter the village-Patti Kalyana, Tehsil Samalkha, District Panipat, till the evidence of the material witnesses/ injured witness is recorded and if he does so, the complainant/State would be at liberty to seek cancellation of his (petitioner's) bail granted vide this order.

(JASJIT SINGH BEDI)
JUDGE

October 18, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No