

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-54695-2022 (O & M)****Date of decision: 01.12.2022**

Rajbir @ Raju

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Gautam Dutt, Advocate, for the petitioner.

Mr. Neeraj Poswal, AAG, 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.0432 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 (petitioner) 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.

Thereafter, the statement under Section 161 Cr.P.C. of Ravinder son of Krishan, injured witness, was recorded. As per which, the petitioner is alleged to have given him an iron rod blow on his head. It is this injury which is stated to be dangerous to life.

3. The learned counsel for the petitioner contends that the injury attributed to the petitioner at the instance of injured-Ravinder was after 12 days of the alleged occurrence. It would be a moot-point as to whether the said injury would be an injury attracting Section 307 IPC. The petitioner is in custody since 17.06.2022 and none of 27 prosecution witnesses have been examined so far. Even otherwise, the complainant-Madan Kumar and injured-Ravinder have not suffered any permanent disability and are leading normal lives. Since the petitioner has clean antecedents and the trial of the present case is not likely to be concluded anytime soon, the further incarceration of the petitioner is not required and he ought to be granted the concession of bail.

4. The learned counsel for the State, on the other hand, contends that the petitioner is the main accused. There is a serious apprehension that if the petitioner was granted the concession of bail, he would threaten/harm the witnesses of the occurrence and therefore, he ought not to be granted the concession of bail. He, however, does not deny the fact that the injured-

Ravinder and the complainant-Madan have not suffered any permanent disability on account of the injuries allegedly caused in the occurrence.

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

6. Admittedly, the petitioner is in custody since 17.06.2022. None of the 27 prosecution witnesses have been examined so far. The petitioner is a first-time offender and has clean antecedents. It would be a matter of adjudication during Trial as to whether the injury attributed to the petitioner is one attracting Section 307 IPC. At this stage, the further incarceration of the petitioner is not required.

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

8. 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.

9. 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.

10. 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.

11. The petitioner shall not enter the village-Patti Kalyana, Tehsil

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

December 01, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No