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

CRM-M-307-2023

Date of decision : 27.03.2023

Bagicha Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Amit Arora, Advocate for the petitioner.

Mr. Ferry Sofat, Addl. A.G. Punjab.

Mr. Vikas Gupta, Advocate for the complainant.

VIKAS BAHL, J. (ORAL)

This is a second petition filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in FIR No.34 dated 01.04.2021 registered under Sections 323, 324, 506, 148, 149 of Indian Penal Code, 1860 (Sections 307, 201, 34 of IPC have been added later and Sections 148 and 149 of IPC have been deleted later on) at Police Station Sadar Patti, District Tarn Taran.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 26.07.2021 and there are 17 prosecution witnesses, out of which, only one witness has been examined in chief. It is further submitted that the previous bail application filed by the petitioner was withdrawn on 13.05.2022 at that stage and even thereafter, only one witness i.e., the complainant had appeared in the witness-box on 10.03.2023 on which date also, only examination-in-chief was recorded and thereafter, an application under Section 319 of Cr.P.C. for summoning of Parkash Kaur

wife of Bagicha Singh was filed and thereafter, the case was adjourned to 31.03.2023. It is contended that on account of the said fact, the trial is likely to be delayed even further and on the ground of long custody alone, the petitioner deserves the concession of regular bail. It is further contended that the injury which has been specifically attributed to the present petitioner is a *datar* blow on the wrist and right arm and as far as the injury on the head is concerned, same has been attributed to the petitioner and one Balwinder Singh.

On the other hand, learned State Counsel as well as learned counsel for the complainant have opposed the present petition for grant of regular bail to the petitioner and have submitted that the complainant is the daughter-in-law of the petitioner and has suffered several injuries including multiple stitched wounds present on the whole skull and forehead. It is further submitted that as per the Discharge Card Report (Annexure P-7), in the column regarding type of injury, it has been stated that the same is dangerous to life. It is contended that the petitioner is involved in one more case under the NDPS Act and there is apprehension that in case, the petitioner is released on bail then he could attack the complainant who is his daughter-in-law.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner has already been granted bail in other case and has relied upon the judgment of Hon'ble Supreme Court in “***Maulana Mohd. Amir Rashadi vs. State of U.P. and another***”, reported as ***2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen and the bail application of the petitioner cannot be rejected solely on the

ground that the petitioner is involved in another case. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

It is further submitted that as per the medical record, no specific injury has been declared to be dangerous to life and the Discharge Card Report (Annexure P-7) is of a Private Hospital.

This Court has learned counsel for the parties and has perused the paper book

Keeping in view the abovesaid facts and circumstances more so, the fact that the petitioner is in custody since 26.07.2021 and out of 17 prosecution witnesses, only one witness has been examined in chief and thus, the conclusion of trial is likely to take time and after examination of PW1-Paramjit Kaur, State has moved an application under Section 319 Cr.P.C. for summoning Parkash Kaur wife of Bagicha Singh and thus, in case, an application under Section 319 Cr.P.C. is allowed then the same would result in de novo trial and at any rate, the filing of the said application would delay the trial further and also the fact that there is no specific injury which has been stated to be dangerous to life, the present petition is allowed and the petitioner is ordered to be released on regular

bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate, subject to him not being required in any other case. The petitioner shall also abide by the following conditions:-

1. The petitioner will not tamper with the evidence during the trial.
2. The petitioner will not pressurize/intimidate the prosecution witness(s).
3. The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
4. The petitioner shall not commit an offence similar to the offence of which he is accused, or for commission of which he is suspected.
5. The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence.
6. The petitioner would not go within the area of 300 meters from the house where the complainant lives.

In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

27.03.2023

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No