

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

CRM-M-1960-2023

Date of Decision:28.08.2023

Bablu alias Mohammad Danish

...Petitioner

vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat**Present :** Mr. Tanvir Singh Grewal, Advocate
for the petitioner.

Mr. Mohinder Singh Joshi, Additional Advocate General, Punjab.

Ms. Nargis, Advocate for
Mr. Gopal Singh Nahel, Advocate
for the complainant.

N.S.Shekhawat J. (Oral)

The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail in case FIR No.083 dated 25.05.2020 registered under Sections 302, 307, 324, 379, 411, 483, 506, 34 & 120-B of IPC (Sections 324, 379, 411, 483 and 120-B of IPC added later on) at Police Station City 1, Malerkotla, District Sangrur.

As per the story of the prosecution, the FIR was registered on the basis of the statement made by Mohammad Dilshad, brother of Mohammad Shamshad, since deceased. As per the complainant, on 25.05.2020, his younger brother Mohammad Shamshad along with Mohammad Aslam were going to the house of his friend Ashraf alias Soni Pehalwan in connection with Eid party. At about 3.00 p.m., Shehbaaz alias Goma, Rehman and Sohali alias Machhar came

on motorcycles and encircled Shamshad and Mohammad Aslam. They started abusing them and exhorted to teach a lesson for misbehaving with them. Shamshad and Aslam rushed towards the house of a lady, who was running Sakina Beauty Parlour. The assailants also intruded in her house, while chasing them. Sohail @ Machhar took out a Bugda (sharp edged weapon) from his *dub* and gave its blow on the back side of the right ear of Shamshad and as a result of the said blow, Shamshad fell down and blood started oozing out. The complainant and Mohammad Aslam tried to rescue his brother and raise noise to save them. In the meantime, Rehman and Shehbaaz alias Goma gave number of blows with knives on various parts of body of Shamshad. Shehbaaz also gave a blow on the right shoulder of Aslam, who ran outside in order to rescue himself. The complainant rescued his brother from the clutches of assailants by requesting them and many people had gathered at the spot. Mohammad Shamshad was shifted to Civil Hospital, Malerkotla, after arranging the vehicle and his brother was declared brought dead by the doctor. The motive for causing the injuries was that Rehman owed an amount of Rs.6000/- to Mohammad Shamshad, since deceased, which he refused to return.

Learned counsel for the petitioner contends that the petitioner was not named in the FIR, even though, the FIR has been registered on the basis of the statement made by an eye-witness and he has been nominated as an accused on the basis of the supplementary statement made by the complainant on 30.05.2020 i.e. five days after the occurrence. Even as per the supplementary statement (Annexure P-2), the complainant came to know that the petitioner had allegedly helped his three co-accused, namely, Shehbaaz @ Goma, Rehman and

Sohail @ Machhar to escape from the spot on a motorcycle. Apart from the said allegation, no other role has been attributed to the present petitioner. Learned counsel further contends that the petitioner was arrested in the present case on 22.04.2022 and is in custody for the last about one year and four months. He further contends that the petitioner is a first offender and his further custody will not serve any meaningful purpose.

On the other hand, learned State counsel assisted by learned counsel for the complainant have vehemently opposed the prayer made by learned counsel for the petitioner on the ground that the petitioner is involved in a heinous crime. Learned State counsel further contends that PO proceedings were ordered to be initiated against the petitioner by the Investigating Agency and he may abscond from the process of law. Learned counsel further submits that there is a CCTV footage, which shows that the petitioner helped the main accused in escaping from the place of occurrence. However, he submits that from the allegations levelled in the challan, no other role has been attributed to the present petitioner.

I have heard the learned counsel for the parties and perused the record.

It is not in dispute that the petitioner was arrested in the present case on 22.04.2022 and is incarcerated for the last about one year and four months. Even as per the learned State counsel, the petitioner had not participated in the main occurrence and had only facilitated the escape of accused, after they had allegedly committed the crime. It is also apparent from the submissions that only five witnesses, out of total 20 witnesses have been

examined so far and the conclusion of the trial may take a long time.

Without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned subject to the following conditions:-

- (i) *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 to disclose such facts to the Court or to any other authority.*
- (ii) *The petitioner shall remain present before the Court on the dates fixed for hearing of the case.*
- (iii) *The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.*
- (iv) *The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*
- (v) *The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.*
- (vi) *In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a petition for cancellation of bail granted to him.*
- (vii) *The concerned Court may insist two heavy local surties and may also impose any other condition, in accordance with*

law, while accepting the bail bonds and surety bonds of the petitioner.

(viii) The petitioner shall report every 1st Monday in English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the rojnamcha. In case, he does not report on every 1st Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Punjab shall be at liberty to move an appropriate application in this regard.

28.08.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No