

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

CRM-M-2586-2023

Date of Decision: 25.04.2023

KULDIP KUMAR

..... PETITIONER

VS

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present : Mr.S.K.Chaudhary, Advocate for the petitioner.

Ms. Himani Arora, AAG, Punjab.

GURBIR SINGH, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No. 109 dated 10.11.2022 under Sections 324, 323, 34 IPC and offence under Section 326 IPC added later on registered at Police Station Sadar, Pathankot.

The case was registered on the statement of complainant Anil Kumar. He has made the statement that he has been running a mobile repair shop and on 10.10.2022 at 6.00 P.M he was standing on his shop. The petitioner came on his four wheeler (Chota Hathi) along with Raj Kumar and Satpal. Some days ago he had repaired a mobile of the petitioner who was to pay the repair charges then a minor dispute took place between them. Due to the said grudge, petitioner gave a blow of gandasi on his head and he fell down and while lying on the ground he gave four constant blows upon him and person accompanied to the petitioner gave kick blows to him.

Learned counsel for the petitioner submits that the case was registered after a delay of one month and there is no explanation for such a long delay. The entire version is concocted by the complainant. The petitioner surrendered himself before the police and is in custody since then i.e. 07.12.2022.

Short reply by way of affidavit of Harkamalpreet Singh Khakh, PPS, Senior Superintendent of Police, District Pathankot on behalf of the respondent-State has been filed and the same is taken on record. A copy thereof has been supplied to the counsel opposite. Custody certificate has also been filed and the same is taken on record.

Learned State Counsel has opposed the petition and has submitted that there is a delay of one month in lodging of FIR at the instance of the complainant as he told the Police that the compromise was likely to be effected between the parties and in case, compromise was not effected, then he would inform the police officials about further course of action. A general diary report No.31 dated 3.10.2022 was also registered to that effect (Annexure R-1/2). Statement of complainant No.1 was also recorded to that effect.

Heard.

As per Section 154 in the Code Of Criminal Procedure, 1973, when any information relating to the commission of a cognizable offence, if given to an officer in charge of a police station, then said officer is bound to record the FIR. The purpose of lodging the FIR is to set the criminal law into motion. In the case in hand, as per GD No.31 dated 23.10.2022 (Annexure R1/2), the complaint was submitted by the complainant, but no

CRM-M-2586-2023

-3-

FIR was registered. Even the statement of the complainant was recorded, but no FIR was registered. The concerned police officer can not postpone the registration of FIR merely on the request of the complainant that the compromise is likely to be effected between the parties.

The petitioner is in custody for the last 04 months and 17 days as per the custody certificate. The completion of trial will also take a long time . The culpability of petitioner would be established in the trial. No useful purpose would be served by keeping the petitioner behind bars for a long period.

Accordingly, without commenting upon the merits of the case, the present petition is allowed and the petitioner is directed to be released on regular bail, on his furnishing bail bonds/surety bonds, to the satisfaction of learned Trial Court/Duty Magistrate, concerned.

Directions are also given to the SSP Pathankot to inquire the matter and fix the responsibility on the officers/officials who delayed the registration of the FIR in this case and to take suitable action as per law and also ensure that there should not be such kind of lapse in future.

However, nothing contained herein above shall be construed as an expression of opinion on the merits of the case.

(GURBIR SINGH)
JUDGE

25.04.2023
renu

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>