

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

214

CRM-M-3653-2023

Date of Decision: 07.02.2023

Joginder Singh**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Mohit Goyal, Advocate for the petitioner

Mr. Amish Sharma, AAG, Punjab
(assisted by ASI Sawarn Singh)

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner, through instant petition under Section 439 Cr.P.C., is seeking regular bail in FIR No.393 dated 17.09.2022 (Annexure P-1) under Sections 295, 354-B, 324, 323, 506, 148 & 149 of IPC, registered at Police Station City Faridkot, District Faridkot.

2. The case of the prosecution is that on 17.09.2022 as per prosecutrix there was religious ceremony at Gurudwara Sahib Shree Nishan Sahib, German Colony, Faridkot and after conclusion of lecture, an altercation took place between petitioner and husband of the prosecutrix. The different persons caused different injuries. The petitioner gave bite on the left elbow of the husband of the petitioner.

3. Learned counsel for the petitioner, *inter alia* contends that the allegation against the petitioner is that he has given bite on the elbow of the complainant. There is no specific allegation against the petitioner

qua commission of offence punishable under Section 354-B and 295 IPC and there is only allegation of commission of offence punishable under Section 323 and 324 IPC. The petitioner is a 62 years old man. The petitioner is in custody since 18.09.2022. The petitioner has been wrongly implicated in the commission of alleged offence. The petitioner has deep roots in the society. There is no possibility of flee from justice. He further submits that this Court in ***CRM-M-805-2023; Gurcharan Singh @ Channa Bhau Versus State of Punjab***, vide order dated 13.01.2023 (Annexure P-3) has granted concession of regular bail to co-accused.

4. Custody Certificate dated 06.02.2023 filed by respondent-State is taken on record. Registry is directed to tag the same at appropriate place.

5. The allegation against the petitioner is only biting at elbow of the husband of the prosecutrix. There is no allegation of causing any injury to prosecutrix. The co-accused of the petitioner has already been released on bail and petitioner, a 62 years old man, is behind the bars for almost 5 months. The challan stands presented and there are 19 prosecution witnesses. The possibility of conclusion of trial in near future is abysmally low. The prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of petitioner being flee from justice or tempering the evidences or winning over/threatening the witnesses. As prosecution has right to

arrest, investigate the matter and restrain an accused from manipulating or winning over witnesses, similarly accused in view of Article 21 of the Constitution of India has right to defend himself and put forth his stand which cannot be possible while in custody;

6. In view of above facts and circumstances, especially release of co-accused on regular bail, this Court is of the considered opinion that present petition deserves to allowed and accordingly allowed. The petitioner is ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaqa/Duty Magistrate concerned.

7. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

07.02.2023
Mohit Kumar

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