

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-7458-2023
Date of decision:- 22.08.2023

Lakhan... Petitioner

Versus

State of Haryana.. Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr.Rovin Kumar, Advocate
for the petitioner.

Mr.Munish Sharma, DAG, Haryana.

Mr.Sunil Panwar, Advocate
for the complainant.

SUVIR SEHGAL, J. (ORAL)

1. Instant petition has been filed under Section 439 Cr.P.C. seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
264	25.09.2020	Sector-7, Manesar, Gurugram	148/149/323/325/506/302 IPC

2. Case of the prosecution is that FIR Annexure P1 has been registered on the statement of Amnish, wherein he alleged that he had a dispute regarding a passage with his uncle, Om Parkash. In the morning of the fateful day, when his wife Sunita was preparing cow dungs, Om Parkash, his daughter – Krishna and Geeta came and started fighting with her. When the complainant reached the spot, he saw that Naresh and Dinesh – sons of

Om Parkash, Ankit and an unknown person (present petitioner), who is living in Om Parkash's house as a tenant started abusing and creating a commotion. Complainant's younger brother – Mohit, mother – Saroj and father – Ganga Saran came on the spot. Ankit and Naresh, who were armed with wooden sticks assaulted them. Krishna and Geeta also joined them. They were threatening the complainant's family. The victims fell down and they were taken to hospital for treatment. Ganga Saran unfortunately expired on 26.09.2020.

3. Counsel for the petitioner has contended that no specific role has been attributed to the petitioner. He submits that the petitioner was an innocent bystander and was living on rent in the premises owned by Om Parkash. By making reference to the testimony of Amnish – PW13, complainant, he has contended that as per his examination-in-chief, the petitioner is accused of physically assaulting Mohit. He submits that all the crucial prosecution witnesses have been examined and the petitioner, who has a clean past and in custody since 03.10.2020, deserves to be enlarged on bail.

4. *Per contra*, State counsel, who is assisted by counsel for the complainant, while opposing the petition made a reference to the reply filed by way of affidavit of Assistant Commissioner of Police, Manesar, Gurugram, which is taken on record. He has submitted that the presence of the petitioner, who was armed with wooden stick and his participation in the unprovoked attack stands established from the CCTV footage in possession of the prosecution.

5. Counsel for the complainant has argued that the petitioner in connivance with co-accused, had attacked and inflicted injuries on the complainant's family, with a pre-determined mind. Counsel for the complainant has expressed apprehension that the petitioner, who is a resident of Aligarh (U.P.) is likely to abscond in case he is released from detention. He has made a reference to interim order dated 21.09.2021 passed by the trial Court to submit that the petitioner had tried to portray himself as Lokender, a juvenile, and had made an unsuccessful attempt to get bail.

6. I have heard counsel for the parties and considered their respective submissions.

7. The role ascribed to the petitioner and the nature of injuries allegedly inflicted by him would remain a subject matter of debate before the trial Court, which shall be determined on the basis of evidence adduced before it. Noticing that all the material prosecution witnesses have been examined, length of custody of the petitioner, which by now is more than 34 months and the stage of the trial, as the prosecution has yet to examine 13 more witnesses, this Court has no hesitation in acceding to the prayer made in the petition.

8. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing heavy bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned. The petitioner shall furnish a solvent local surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.

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9. While being released on bail, the petitioner shall furnish his mobile number to the SHO/Investigating Officer concerned, which he will keep switched on at all times. He shall also personally report to the SHO/Investigating Officer concerned at Police Station Sector-7, Manesar, Gurugram in the forenoon on first and third Monday of every month.
10. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

22.8.2023
Brij

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No