

CRM-M-14653-2023

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2023:PHHC:045961

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-14653-2023

Date of decision : 28.03.2023

Bishan Dass @ Bishu

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Manbir Singh Basra, Advocate
for the petitioner.

Mr.Yadwinder S. Bhangu, AAG, Punjab.

VIKAS BAHL, J.(ORAL)

This is a third petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.05 dated 14.01.2022 registered under Sections 302, 307, 323, 148, 149, 506 IPC at Police Station Division No.1, District Pathankot.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 19.01.2022 and out of 22 witnesses, only one witness has been examined and thus, the trial is likely to take time and the petitioner is not involved in any other case. It is further submitted that the earlier bail application of the petitioner was dismissed as withdrawn on 13.03.2023 with liberty to file a fresh petition after correctly translating the FIR. It is stated that the first bail application of the petitioner was withdrawn at that stage on 04.08.2022 and even thereafter sufficient time

has elapsed but the trial has not made much progress and even after examination-in-chief of the complainant, the State has moved an application under Section 319 Cr.P.C. and thus, the trial would be further delayed on account of the same. It is further stated that as per the FIR, no injury has been attributed by the petitioner to the deceased and the injury to the deceased has been attributed to co-accused Pardeep. It is submitted that the petitioner along with Bharath, Yuman, Kamal, Monu Bhagat and Tara Chand has been attributed to have inflicted brick bat injuries to Ajay Kumar, Neeraj Mahajan and Abhishek Sharma and no specific injury even to the said persons has been attributed to the petitioner. It is further submitted that the injuries suffered by said three persons are all simple in nature. It is further stated that as per the FIR, it is the complainant party who had come to the street of the accused persons and one Bharat Kumar belonging to the party of the accused persons has also suffered one injury and regarding the same, DDR has been lodged by the petitioner. It is further stated that the complainant has been examined as PW-1 and even as per the said examination-in-chief, no injury to the deceased has been attributed to the present petitioner.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the petitioner along with the other co-accused persons had thrown the brick bats at Ajay Kumar, Neeraj Mahajan, and Abhishek Sharma i.e., friends of the deceased. Also, the accused persons had in pursuance of their common object had raised lalkara and co-accused Pardeep and Raman had caused injuries to the deceased on account of which the deceased died and that the petitioner had also participated in the said occurrence. The other facts have, however, not

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

The petitioner has been in custody since 19.01.2022 and out of 22 witnesses, only one witness has been examined and after the evidence of the complainant, which has been recorded as PW-1, the prosecution has moved an application under Section 319 Cr.P.C. and thus the trial is likely to take time. The petitioner is stated to be not involved in any other case. The petitioner has not been attributed any injury to the deceased. The petitioner along with other co-accused namely Bharath, Yuman, Kamal, Monu Bhagat and Tara Chand has been stated to have thrown brick bats at Ajay Kumar, Neeraj Mahajan, and Abhishek Sharma who all have suffered simple injuries. No specific injury even to the said persons has been attributed to the present petitioner. Bharath Kumar from the side of the petitioner was also injured and as per the FIR, it is the complainant party which had come to the street where the accused persons reside.

Keeping in view the above said facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently

of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

March 28, 2023
Davinder Kumar

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