

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-14113-2023

Date of Decision:-24.03.2023

Ishant.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Pranshul Dhull, Advocate for the Petitioner.

Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.434 dated 02.12.2021 under Sections 324, 506, 34, 201 IPC and later on added Section 307 IPC registered at Police Station Arya Nagar, Rohtak, District Rohtak.

2. The present FIR came to be registered at the instance of Varun Kumar who stated that at about 8.00 PM while he was in the street, five boys namely Pawan, Goly, Sunny (@ Rohit Kant (since granted bail vide order dated 22.11.2022 in CRM-M-21731-2022 and two remaining boys whose names he did not know came to the spot. Sunny was armed with a *lathi* and he inflicted a blow of the same on his arm and the unknown boys attacked with a *sua*. He fell down on the ground and while lying on the ground the aforementioned boys gave him kick blows. His brother Sumit came in the street and thereafter the five boys ran away from the spot with their respective weapons.

During the course of investigation the petitioner was arrested and it was found that the injury attracting Section 307 IPC had been attributed to Ishant (petitioner) with a *sua*.

4. The Counsel for the petitioner contends that the petitioner has not been named in the FIR but his name come up during the course of investigation. Though as per the prosecution case, the injury attracting Section 307 IPC has been attributed to him, however, the medical evidence regarding the injury being dangerous to life is doubtful. The petitioner is in custody since 14.02.2022 . His co-accused Rohit Kant @ Sunny had been granted the concession of bail vide order dated 22.11.2022 in CRM-M-21731-2022. Since none of the 15 prosecution witnesses had been examined so far, the petitioner was entitled to the similar relief of bail as the Trial was not likely to be concluded anytime soon.

5. The Counsel for the State on the other hand contends that the petitioner is the main accused, who assaulted the complainant which lead to the registration of the FIR. The weapon of offence i.e. *sua* stands recovered from him. The nature of the allegations levelled against him and his co-accused did not entitle him to the grant of bail. Even otherwise, the petitioner has criminal antecedents with other cases registered against him bearing FIR No.210 of 2020 under Sections 148, 149, 285, 323, 324, 379-B and 506 IPC and Arms Act P.S. Civil Lines Rohtak, FIR No.29 dated 28.01.2022 under Sections 307, 506, 34 IPC and Arms Act P.S. Old Sabji Mandi, Rohtak and FIR No.215 of 2019 under Section 307, 323, 506, 34 IPC P.S. Old Sabji Mandi, Rohtak. In two of the said cases he has been granted the concession of bail. He however, does not dispute the fact that his co-accused namely Rohit Kant @ Sunny has been granted the concession of bail and none of the 15 prosecution witnesses have been examined so far.

6. I have heard the learned counsel for the parties.
7. Admittedly, the petitioner is stated to be in custody since 14.02.2022. None of the 15 prosecution witnesses have been examined so far. The co-accused of the petitioner namely Rohit Kant @ Sunny has been granted the concession of bail. Therefore, the further incarceration of the petitioner is not required as the Trial is not likely to be concluded any time soon.
7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Ishant son of Sh. Ajay is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.
8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned hereinabove.
9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.
10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

March 24, 2023

Vinay

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