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

**CRM-M-14958-2023
Date of Decision: 25.05.2023**

Gurbhej Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Kamal Sharma, Advocate for
Mr. Darshan Singh Malwai, Advocate
for the petitioner.

Mr. Harjinder Singh Sidhu, AAG, Punjab.

HARSH BUNGER J. (ORAL)

The petitioner (Gurbhej Singh) has filed the instant petition under Section 439 of the Code of Criminal Procedure seeking grant of regular bail in case FIR No.202 dated 29.11.2022 registered under Sections 380 and 459 of the Indian Penal Code, 1860 at Police Station Gharinda, District Amritsar.

2. Upon issuance of notice, status report dated 25.05.2023 by way of affidavit of Parvesh Chopra, P.P.S., Deputy Superintendent of Police, Sub Division Attari, Amritsar (Rural) on behalf of respondent/State of Punjab is filed by the learned State counsel in Court today and the same is taken on record, subject to all just exceptions.

3. Briefly, the aforesaid FIR was registered on the statement of Ritik Kumar s/o late Om Parkash, wherein he alleged that on 28.11.2022, he and his brother-Shubham were sleeping in a room when at about 1:15 A.M. at night, he heard the noise regarding breaking of a window, accordingly he

asked his brother to get up and said that some persons with intention to commit theft have entered their house whereupon, his brother-Shubham called the neighbourers on phone and requested them to come out if they are at home. It is alleged that thereafter the complainant along with his brother-Shubham came out of their room and a young man with sharp weapon attacked the complainant which hit him on his nose. It is further alleged that the complainant along with his brother-Shubham tried to catch hold of the said assailant, however, the said accused along with the sharp weapon jumped the wall of their house and ran away. The person who had ran away was Gurbhej Singh @ Lattu (petitioner) s/o Dilbagh Singh and being a co-villager, the complainant knew him well. As per the complainant, due to injury with sharp weapon, blood started oozing out. Accordingly, complainant's brother (Shubham) and their neighbors arranged the conveyance and got the complainant admitted at Civil Hospital, Lopoke. Accordingly, the abovesaid FIR was registered.

4. The petitioner approached the Court of learned Additional Sessions Judge, Amritsar, seeking regular bail; however, the same was rejected vide order dated 14.03.2023 (Annexure P-4). Accordingly, the present petition has been filed by the petitioner before this Court under Section 439 Cr.P.C. seeking regular bail.

5. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case by the complainant in connivance with the Investigating Officer to save his brother, Lovely (Member of Panchayat), Monu (Member of Panchayat), Pinder, Shubham s/o of Om Parkash and three unknown persons who had badly injured the petitioner out of election grudge. It is submitted that the petitioner was badly

injured and was medico legally examined in Government Medical College, Amritsar and according to the copy of the Medico-Legal Report (Annexure P-2), there are number of injuries on the person of the petitioner and the FIR in question has been brought into existence by the police to help the actual culprits who had beaten the petitioner and he had already submitted a complaint in that regard. Learned counsel further submits that the application for regular bail filed by the petitioner before learned Additional Sessions Judge, Amritsar which has wrongly been dismissed vide order dated 14.03.2023 (Annexure P-4). Learned counsel further submits that the petitioner herein is ready to abide by all the conditions as may be imposed by this Court or by the trial Court, accordingly prayer for grant of regular bail is made.

6. Per contra, learned State counsel has opposed the prayer made by the petitioner for grant of regular bail on the ground of seriousness and gravity of the offence. It is submitted that in the instant case, offence under Sections 457/511 of the Indian Penal Code have also been added. Learned State counsel while referring to the status report has submitted that complainant-Ritik Kumar was medico legally examined at Community Health Center, Lopoke, Amritsar and as per his Medico-Legal Report, the following injuries were found:

“i) Stitched wound present at root of nose, total 2 stitches in numbers. No swelling, no tenderness present. Kept under X-ray and bed head ticket.

ii) Stitched wound present on right cheek, 1 cm below right eyelid, 3 stitches in numbers, no swelling, no tenderness present. Kept under x-ray and bed head ticket.

iii) Stitched wound present at right eyelid, 3 stitches in numbers, no swelling, no tenderness present. Kept under x-ray, eye opinion and bed head ticket.”

Learned State counsel has further submitted that the allegations levelled by the petitioner in this petition were got verified from independent residents of the area by recording their statements, however, the allegations levelled by the petitioner were not proved and it was found that the petitioner had fallen while scaling over the boundary wall of the house of the complainant and the petitioner is leveling false allegation against the complainant and others in order to create pressure upon them for taking undue advantage in the present case FIR No.202/2022, accordingly, the application bearing No. 1923-AP dated 09.12.2022 submitted by the petitioner to the office of Senior Superintendent of Police, Amritsar has been recommended to be filed and consigned to the record room. Learned State counsel further submits that the petitioner was arrested on 15.02.2023 and after completing the investigation in this case, the challan stands presented on 12.05.2023 before the concerned Court. It is further submitted that since the allegations levelled against the petitioner are serious in nature, accordingly there is strong apprehension that if the petitioner is released on bail then he may tamper evidence by threatening or influencing the prosecution witnesses or may abscond and flee from justice which may delay the trial; accordingly, prayer for dismissal of the petition has been made.

7. I have heard learned counsel for the parties and perused the paper book as well as the status report filed on behalf of the respondent/State.

8. The petitioner has been booked under Sections 380, 459 of the Indian Penal Code, 1860 (Sections 457 and 511 of the Indian Penal Code added later on). The offence under Sections 457 and 459 of the Indian Penal Code are serious in nature and offence under Section 459 is punishable with

imprisonment for life or imprisonment for either description for a term which may extend to ten years. As per the status report, the petitioner is stated to have suffered injuries on his nose, right cheek and right eye lid and the said injuries have been treated with stitches. Although, the challan stands submitted before the concerned Court, however material witnesses are yet to be examined.

9. Furthermore, when the accused is facing serious charges, he may develop temptation to jump the bail. The apprehension expressed by the State counsel that if released on bail, there is every likelihood of the petitioner trying to tamper with the prosecution evidence by giving threats and inducement to the prosecution witnesses and absconding even to prolong the trial, cannot be brushed aside lightly.

10. In view of the above, the present petition under Section 439 Cr.P.C. seeking grant of regular bail to the Petitioner (Gurbhej Singh) in case FIR No.202 dated 29.11.2022 registered under Sections 380 and 459 of the Indian Penal Code, 1860 (offence under Sections 457 and 511 of the Indian Penal Code added later on) at Police Station Gharinda, District Amritsar; is dismissed.

11. Nothing stated here-in-above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

12. Pending application/s, if any, shall also stand disposed of.

25.05.2023
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(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No