

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

CRM-M-18141-2023

Date of Decision:-24.07.2023

Nishan.

.....Petitioner.

Vs.

State of U.T., Chandigarh.

.....Respondent.

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

Present:- Mr. S.K. Kanojia, Advocate for the Petitioner.

Mr. A.M. Punchhi, Addl. PP U.T., Chandigarh.

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.124 dated 28.09.2022 under Sections 147, 148, 149, 323, 325, 307 IPC registered at Police Station Maloya, Chandigarh.

2. The brief facts of the case are that the statement of one Kapoor Yadav was recorded to the effect that on not finding his brother Raju Yadav home, when he went to look for him, he heard a loud noise near the Mandir. He saw one boy namely Perry (since granted bail vide order dated 17.07.2023 in CRM-M-32886-2023) arguing with his brother Raju Yadav. In the meantime one boy standing there suddenly gave a stick blow on the head of his brother. The name of the said boy was Nishan(petitioner). His brother fell down on the road due to the stick blow. Thereafter the accomplices of Perry namely Bharti carrying a *gandasi*, Arun carrying a *gandasi* and Perry who was also carrying a *gandasi* started assaulting his

brother. Firstly Perry attacked his brother with a *gandasi* and Bharti and Arun gave many blows of *gandasies* on the person of his brother. His brother sustained injuries on the leg, head and on the whole body. When he (complainant) tried to intervene Arun attacked his left arm and Perry gave a blow of *gandasi* on his back. Nishan and Bharti attacked his (complainant's) right leg and head with a stick and *gandasi* respectively. The accused persons were accompanied by 10/15 persons whose names he do not know but could identify. He along with his brother were taken to the hospital. They had been attacked on account of previous enmity. Legal action was sought.

3. The Counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. In fact taking the allegations to be true the injuries on the persons of the complainant and injured were grievous in nature. However, to increase the severity of the case offence under Section 307 IPC has been added. As the petitioner was in custody since 04.10.2022 and none of the 15 prosecution witnesses had been examined so far, he was entitled to the concession of bail more so when he was first time offender with no criminal antecedents and a co-accused namely Periya Samy @ Perri had been granted bail vide order dated 17.07.2023.

4. The Counsel for the State on the other hand contends that the petitioner is the main accused. He along with his associates brutally assaulted the complainant and his brother. Therefore, the nature of allegations levelled against the petitioner and his co-accused did not entitle him to the grant of bail. He however, concedes the fact that the petitioner is the first time offender, in custody since 04.10.2022 and none of the 15 prosecution witnesses have been examined so far.

5. I have heard learned Counsel for the parties.
6. The veracity of the prosecution case against the petitioner and his co-accused shall be established during the course of the Trial. Admittedly, the petitioner is a first time offender, in custody since 04.10.2022 and none of the 15 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation the further incarceration of the petitioner is not required more so as his co-accused Periya Samy @ Perri had been granted bail vide order dated 17.07.2023..
7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Nishan** son of Sh. Rajan is ordered to be released on bail subject to her 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 that he is not involved in any other crime other than the present case.
9. In addition the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- 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 the trial without sufficient cause.
10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

July 24, 2023
Vinay

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