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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-19460-2023(O&M)

Date of Decision:17.10.2023

Kala Khan

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Liaqat Ali, Advocate, for the petitioner.

Mr. Ramdeep Partap Singh, Senior DAG, Punjab.

Mr. Tanvir Singh Grewal, Advocate, for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.0002 dated 05.01.2023, under Sections 323 and 341 IPC (Sections 308, 325 and 34 IPC added later on), registered at Police Station Sandaur, District Malerkotla.

2. Learned counsel for the petitioner submitted that the petitioner is in custody from 19.02.2023 and investigation of the case has already been completed and thereafter challan has been presented. He further submitted that it is a case where the allegations against the petitioner and the other co-accused who is brother of the petitioner are that they have given beatings to the complainant on his legs and arms. He submitted that the dispute was with the co-villagers and there are pre-existing disputes between the parties and even

civil litigations are also pending and has submitted that earlier even one FIR was lodged by the mother of the petitioner against the son of the complainant under Section 326 IPC. He submitted that be that as it may, the investigation of the case has already been completed and the allegations are pertaining to inflicting of injuries on the non-vital part of the body and the charges have already been framed and therefore, the petitioner may be considered for the grant of regular bail.

3. On the other hand, Mr. Ramdeep Partap Singh, Senior DAG, Punjab as well as Mr. Tanvir Singh Grewal, Advocate appearing on behalf of the complainant have opposed the grant of bail on the ground that the matter is serious in nature since injuries were inflicted on an old man of the age of 83 years, although on non-vital part of the body but the injuries were serious in nature. They further submitted that so far as the custody of the petitioner is concerned, the same is correct and it is also correct that the charges in the present case have been framed. Mr. Grewal has however stated that in case the petitioner is released on bail, then he may violate the conditions of the bail by influencing the witnesses and therefore, the petitioner is not entitled for the grant of bail.

4. I have heard the learned counsel for the parties.

5. It is a case where the allegations were that the petitioner and his brother have inflicted injuries on the legs and arms of the complainant who is stated to be of the age of 83 years. The investigation of the case has already been completed and even charges have been framed. It is a settled law that seriousness of an offence *per se* cannot become a ground for denial of bail. However, if there is a serious apprehension in the mind of the prosecution or the complainant based upon some material that in case the petitioner is released

on bail, then he may influence the witnesses, the same is also relevant factor for considering the grant of bail. An apprehension has been so expressed by the learned counsel for the complainant but there is no material on the basis of which the same can be substantiated. This Court is of the view that considering the stage of the case and the fact that the injuries were inflicted on non-vital part of the body, this Court deems it fit and proper to grant bail to the petitioner.

6. Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

7. It is made clear that in case the complainant at any stage thereafter has any real apprehension from the petitioner, then he can always file an appropriate application before the police/Court in this regard and even an application for cancellation of bail can also be moved, in case there is violation of any condition of bail.

8. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

17.10.2023

rakesh

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No