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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.20943 of 2023
Date of Decision : 25.09.2023

Neeraj Bhatti @ Neeraj Kumar

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Lalit Sharma, Advocate for
Mr. Anshul Sharma, Advocate
for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

Present third petition has been filed under Section 439 Cr.P.C.
is for grant of regular bail to the petitioner in case FIR No.139, dated
22.11.2022, under Sections 307, 323, 34 IPC, registered at Police Station
Division No.1, District Pathankot.

Brief facts of the case are that statement of Gautam son of
Pawan Kumar was recorded wherein it was alleged that he is 16 years of
age and studying in +1. On 21.11.2022 at about 7 p.m., when he was
standing in front of his house, his friend Parth Guleria came to him on
bullet motorcycle and took him to buy clothes from the market. He went
along with him. When they were returning home at about 8 p.m., they were
followed by some boys, who were on their motor cycles, chasing them and
thereafter surrounded them. Both of them fell down. After having fell
down, Neeraj Bhatti @ Billi i.e. the petitioner caught hold of Parth and

Vinay, hit the grip held in his right hand on Parth's face which hit on parth's nose. Multiple fists blows were given to them. Thereafter father of Parth came to the place of incident and arranged a vehicle and took Parth to the Civil Hospital, Pathankot. They were medically examined and on the basis of MLR, three injuries were found to have been caused and it was prayed that the accused attacked them with intention to kill and thus, action be taken. On the basis of the same, FIR under Sections 307, 323, 34 of IPC was registered. On registration of the FIR, investigation commenced and the petitioner was arrested on 22.11.2022. The investigation was completed; challan was filed and charges were framed. The petitioner approached the Court of learned Additional Sessions Judge, Pathankot praying for grant of bail. However, after hearing both the sides, learned Additional Sessions Judge declined the same vide order dated 17.12.2022. Aggrieved by the same, petitioner on earlier occasion approached this Court praying for grant of regular bail by filing a petition bearing **CRM-M No.61031 of 2022**. However, the same was allowed to be dismissed as withdrawn on 10.01.2023. Thereafter, petitioner filed another petition before this Court bearing **CRM-M No.15896 of 2023** but the same was also allowed to be dismissed as withdrawn with liberty to file afresh vide order dated 17.04.2023. Hence, the petitioner is before this Court again by way of filing the present third petition.

It has been contended by learned counsel for the petitioner that the petitioner has been falsely and frivolously implicated in this case. He submits that the occurrence in question allegedly took place on 21.11.2022. However, the FIR was registered on 22.11.2022 on the next

date with due deliberations. He submits that the only allegation made against the petitioner is that he caught hold injured Parth, however, he was neither armed with any weapon nor he had given any injury to the injured. He further submits that as per allegations, the co-accused gave fist blows on account of which complaint allegedly suffered injuries. He submits that the ocular version is not even medically corroborated and thus, the offence under Section 307 IPC is not made out. He submits that petitioner is behind bars since the date of his arrest i.e. 22.11.2022 and investigation in this case was completed and charges were also framed. He submits that despite having been issued the summons by the trial Court for examining the complainant he is intentionally not appearing before the trial Court so as to prolong the incarceration of the petitioner. He submits that petitioner has no criminal antecedents and thus, in the overall facts and circumstances of the case, he deserves to be granted the concession of bail.

Learned State counsel, on the other hand, has opposed the submissions made by learned counsel for the petitioner. She, on instructions from ASI Kuldeep Raj, has submitted before this Court that presence of the petitioner is specifically established at the spot. She submits that the complainant was chased by the petitioner and co-accused and thereafter they were stopped and when they fell down, complainant was inflicted three injuries. She submits that though the challan has been filed and charges are also framed, however, the complainant is yet to be examined. She further submits that out of 19 prosecution witnesses, none has been examined so far. She submits that as per instructions, the petitioner is not involved in any other case except the present one.

I have heard the learned counsels for the parties and perused the record.

Evidently, the occurrence has taken place on 21.11.2022. In all there are six accused and out of which two were already granted bail. The allegation against the petitioner is that he caught hold the injured. Whether the offence under Section 307 IPC is constituted or not would be assessed by the trial Court on the basis of the appreciation of the evidence to be led by the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. There is nothing on the record to show that the petitioner has any criminal antecedents and out of 19 prosecution witnesses, none has been examined so far.

Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeded in making out a case for grant of regular bail. Accordingly, 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. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

25.09.2023
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No