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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-22192-2023 (O&M)

Date of decision: August 17, 2023

Akashdeep Singh

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Parminder Singh Sekhon, Advocate for petitioner.

Ms. Guramrit Kaur, DAG Punjab.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioner, before this Court seeks his release as an undertrial in a case bearing FIR No.11 dated 04.03.2023, registered under Sections 307, 326, 341, 324, 323, 148 read with Section 149 of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station, Sherpur, District Sangrur.

2. According to the FIR/prosecution's version, on 03.03.2023, the complainant, Jaspreet Singh, was out on a post-dinner walk with his friends, Maninder Singh and Khushpreet Singh. At approximately 8.45 p.m., a group of boys on 3 or 4 motorcycles approached them from behind. After parking their motorcycles, the boys encircled the complainant and his friends. Among them, the complainant was able to identify two individuals: Sukhdev Singh, also known as Soni, who was armed with a *Kirpan*, and his younger brother Sewak Singh, armed with a rod fitted with a *grari*. Aside from these two identified individuals, the complainant and his friends were unable to identify the remaining assailants, who were also armed with iron rods and sticks. Sukhdev Singh struck the complainant's head with the *Kirpan*, but the complainant managed to raise his left hand to protect himself, resulting in the blow hitting his left hand. Gursewak Singh also struck the complainant's left hand with an iron rod fitted with a *grari*. Sukhdev Singh, also known as Soni, hit the complainant's left arm, while an unidentified person hit his right hand. Another unidentified individual struck the complainant's left knee with a

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rod, causing him to fall to the ground. The assailants continued their assault until they saw the headlights of an approaching vehicle. At that point, all the assailants fled on their motorcycles, taking their weapons with them. During investigation, petitioner was arrested on 08.03.2023 and is in custody ever since.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated on the basis of disclosure statement of co-accused, namely Sukhdev Singh @ Soni. He further submits that petitioner was not named in the FIR. In the supplementary statement of complainant, petitioner was though alleged to be armed with iron rod, but no specific injury was attributed to him on that account. He also contends that no offence under Section 307 IPC is made out, as doctor has not declared any injury to be dangerous to life. He submits that petitioner is a barber by profession. Complainant and accused, on an earlier occasion, had all come to his shop, when complainant party misbehaved with petitioner under the influence of liquor. Just to settle an old score, petitioner has been named as a co-accused. Learned counsel further urges that nothing is to be recovered from the petitioner and no useful purpose would be served by keeping him behind bars.

4. On the other hand, learned State counsel, on instructions from ASI Gurtej Singh, opposes the petition and submits that petitioner has committed a serious offence. She further submits that complainant and his friends were caused injuries by the petitioner and his co-accused. If enlarged on bail, there is every likelihood that he will commit similar offence and/or will flee from trial, and he might tamper with evidence or influence/ intimidate the witnesses. She however, admits that there is no other case against the petitioner.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. On a Court query, learned State counsel submits that challan has already been presented on 02.06.2023, but charges are yet to be framed. Investigation *qua* petitioner is complete, he is thus not required for custodial interrogation. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Allegations against petitioner are a matter of trial at this stage. Whereas, petitioner has already been

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languishing in jail for the past more than 5 months in preventive custody, being behind bars since 08.03.2023.

7. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/or influence witnesses. There is no probability of tampering with evidence as the same has already been seized by the investigating agency.

8. It is stated that petitioner is barber by profession and is married person having wife and two children to look after, who are living in sheer penury in his absence. Being a family man having fixed abode and clean antecedents, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.

9. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.

10. Accordingly, petitioner is ordered to be released on bail, in case not required in any other case, on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

11. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.

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

(ARUN MONGA)
JUDGE

August 17, 2023

mahavir

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No