

IN THE HIGH COURT OF PUNJAB & HARYANA

AT CHANDIGARH

106+211

CRM-M-24485 of 2023 (O&M)

Date of decision:07.07.2023

Ankush Kumar

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Arpandeeep Narula, Advocate
for the petitioner.

Mr. Munish Sharma, DAG, Haryana.

SUVIR SEHGAL, J. (Oral)

CRM No.27261 of 2023

Application is allowed as prayed for.

Petitioner is permitted to amend the head note and prayer clause
of the petition.

Office shall carry out the rectification.

Main Case

1. Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, seeking grant of regular bail to the petitioner in case bearing FIR (Annexure P-1):-

FIR No.	Dated	Police Station	Sections
65	28.01.2023	City Sirsa, District Sirsa	147, 148, 149, 323, 324, 341, 307 IPC, 25 of Arms Act, however, Section 307 IPC has been deleted and Section 326 IPC has been added later on.

2. Version of the prosecution is that FIR (Annexure P-1) has been registered on the statement of Pooja wife of Ramesh Kumar on the allegation that in the afternoon on 27.01.2023, when she and her husband were at their hotel, six boys came in a Swift Dzire car. They were armed with sword and kappa. One of them, Rajat instigated the other boys to attack her husband and kill him. Rajat hit her husband with a sword but he managed to save himself. All other accused started attacking him. In the meanwhile, another vehicle, a Scorpio car came with two boys, who were armed with pistol and wooden stick. On an alarm raised by her, Deepak @ Deepu, a relative and an employee, Varun came. On spotting them, assailants ran away. With the help of Deepak @ Deepu, and Varun, complainant brought Ramesh Kumar to a Govt. hospital. It has been alleged that Rajat, Dharamvir alongwith other assailants had an altercation with her husband a few days back and attacked him in retaliation.

3. Counsel for the petitioner submits that the petitioner has not been named as an accused in the FIR. He submits that on the basis of a supplementary statement of the injured, Ramesh, recorded on 18.03.2023 which is an improvement over the original version of the prosecution, petitioner, Baljit Singh and Sunil Kumar have been named as accused. It is his specific case that petitioner is not the owner of either of the vehicles nor any recovery has been effected from him. Counsel submits that although initially FIR was lodged under Section 307 IPC but after the opinion of the doctor, offence under Section 307 IPC has been deleted and Section 326 IPC

has been added. He asserts that the petitioner, who has clean antecedents deserves to be enlarged on bail as he is no longer required for custodial interrogation.

4. Per contra, State counsel upon instructions from ASI Krishan Gopal, has opposed the petition and has submitted that 15 injuries have been inflicted on Ramesh Kumar, though he could not point out any specific attribution qua petitioner, who was one of the assailants. State counsel submits that although challan qua petitioner has been presented on 16.06.2023, but since other accused are yet to be arrested and arrest of two co-accused has been stayed by this Court, investigation qua other accused is incomplete. State has filed a status report by way of an affidavit of Deputy Superintendent of Police (HQ), Sirsa, District Sirsa on behalf of respondent-State.

5. I have heard counsel counsel for the parties and considered their respective submissions.

6. Petitioner, who has clean antecedents has been arraigned as an accused on the basis of the statement of the injured, which has been recorded after more than one and a half month of the lodging of the FIR (Annexure P-1). Except for accused-Rajat, there is no specific allegation against any other accused, including the petitioner. Serious offence under Section 307 IPC has been deleted and Section 326 IPC has been added during the investigation which is completed qua the petitioner. Noticing these factors and the role allegedly ascribed to the petitioner, this Court has

no hesitation in acceding to the prayer made in the petition.

7. Without advertng to the merits or demerits of the arguments addressed, petition is allowed and petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

July 07, 2023
savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No