

CRM-M-24671-2023

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(209)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-24671-2023

Date of Decision: 19.05.2023

KUNAL RAJPUT @ RISHI

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sherry K. Singla, Advocate
for the petitioner.

Ms. Ramta K Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.02 dated 09.01.2022 (Annexure P-1) registered under Sections 302, 307, 326, 325, 323, 506, 34 IPC, 1860 at Police Station Urban Estate, Patiala, District Patiala.

2. The brief facts of the case which lead to the registration of the FIR are that the statement of Sarvan son of late Om Parkash was recorded to the effect that he was doing the work of scooter repair and they were four sisters and brothers. The marriage of his eldest sister Sushma Rani had been solemnized with Dinesh Kumar. His sister had two children, the elder son being Nikhil Gogia and the younger one was a daughter. On account of a family dispute with her husband, his sister and her children were living with him (complainant). On the date of the occurrence he (complainant) had gone to the shop i.e. Koliya Patiala Grocery Shop. In the meantime, his nephew

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Nikhil Gogia (deceased) along with his friend Vivek Deep and Munark Garg came on a motorcycle and stopped at the shop of Happy Cosmetic Shop. In the meantime Ankush Aneja son of Ashok Kumar along with his accomplices Chetan Verma son of Rajesh Verma, Kunal Rajput alias Rishi (petitioner) son of Raj Kumar and Amandeep Khanna (granted bail vide order dated 02.05.2023 passed in CRM-M-21461-2022) came from the other side. Chetan Sharma was carrying a baseball bat and Ankush Aneja immediately picked up scissors from Jaggi Barber and asked his accomplices to catch the complainant party. They attacked Nikhil Gogia and his friends. Chetan Verma gave a baseball blow on Munark Garg who fell down. Then Amandeep Khanna caught hold of Vivek Deep from his neck and Ankush Aneja gave a scissor blow on the back of Vivek Deep. Chetan Verma struck baseball bat blows on his legs. Kunal Rajput alias Rishi (petitioner) caught Nikhil Gogia and Chetan Verma attacked him with a baseball bat. Ankush Aneja gave many blows with a scissor on his (Nikhil Gogia's) thigh. When he fell down, Amandeep Khanna kicked him. When his (complainant's) maternal nephew Nikhil Gogia raised a hue and cry then all the accused fled away from the spot. Thereafter, he along with his family members took Nikhil Gogia along with Monark Garg and Vivek Deep to Rajendra Hospital, Patiala, where Nikhil Gogia was declared dead. The reason for the enmity was that Ankush Aneja and his accomplices were friends of his (complainant's) maternal nephew Nikhul Gogia but subsequently some dispute had arisen between them. Legal action was sought against the accused.

3. The learned counsel for the petitioner contends that no specific injury has been attributed to the petitioner. Taking the prosecution case to be true, the petitioner is stated to have caught hold of Nikhil Gogia (deceased) whom the co-accused Ankush Aneja gave scissor blows and Chetan Verma gave baseball bat blows. He contends that so far the petitioner is concerned, there was no motive on his part to commit the offence in question. In fact, he had been falsely implicated and even during the course of investigation no incriminating material was recovered from his possession. As he was in custody since 14.01.2022, none of the 24 prosecution witnesses had been examined so far and he was a first-time offender, his further incarceration was not required and he ought to be granted the concession of bail.

4. On the other hand, the learned State counsel contends that the petitioner was a member of an unlawful assembly. Therefore, merely because the fatal injury had not been attributed to him would not entitle him to the grant of bail. He, however, does not dispute the fact that the petitioner is a first-time offender, in custody since 14.01.2022 and none of the 24 prosecution witnesses had been examined so far.

5. I have heard the 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 Trial. The petitioner is a first-time offender. He has been in custody since 14.01.2022 and none of the 24 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded anytime soon. In such a situation, his further incarceration is not required, moreso, when his co-

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accused Amandeep Khanna has been granted the concession of bail by this Court vide order dated 02.05.2023 passed in CRM-M-21461-2022.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Kunal Rajput @ Rishi son of Ashwani Kumar is ordered to be released on bail subject to his 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 each time that he is not involved in any other crime other than the present one.

9. If the petitioner or his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this order.

10. 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 trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

19.05.2023

JITESH

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