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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-25282-2023

Date of Decision: 27.07.2023

Tejpal

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mrs. Kanwal S. Walia, Advocate,
for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

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 case bearing FIR No.218 dated 14.05.2021, under Sections 307, 324, 323, 341, 148, 149 of the IPC registered at Police Station Kotwali, Patiala, District Patiala.

2. It has been submitted by learned counsel for the petitioner that the petitioner is in custody since 24.02.2022, which is more than 1 year and 5 months and it is a case where as per the allegations the petitioner and the other co-accused had collectively hit the injured, namely, Sammi, who received multiple number of injuries. She further submitted that now 4 out of 15 witnesses have already been examined including the complainant and submitted that qua one of the co-accused, namely, Manav @ Gandhi and Mani, the complainant has turned hostile although he had specifically named those persons in his earlier statement. She also submitted that all the other

co-accused in the present case are already on bail and so far as the role of the present petitioner as per the prosecution is concerned, he had caused *khurchana* blow on the head of the injured regarding which he sustained injuries on the head. She further submitted that as per the MLR which has been so reproduced by the respondent-State in the affidavit filed by them, the injury No.1 which was attributable to the petitioner, was only diffuse reddish swelling present around left side of head but there is no serious injury on the head although total 12 injuries were shown in the MLR. She submitted that injuries No.7, 8 & 9 were attributable to the co-accused, namely, Rohit @ Cheeku which were rather serious in nature since according to the MLR there were wounds on the chest and upper abdomen area and a stab wound and all the injuries which were dangerous to life attributed to the co-accused, namely, Rohit @ Cheeku. She further submitted that the aforesaid co-accused, namely, Rohit @ Cheeku has since been extended the benefit of regular bail by a Co-ordinate Bench of this Court in CRM-M-4005-2023 on 10.04.2023 vide Annexure P-3 and so far as the present petitioner is concerned, he is not only at parity with the aforesaid co-accused but he is rather at better footing as that of the aforesaid co-accused. She also submitted that although the petitioner is involved in four more cases but the pendency of the aforesaid cases cannot become a ground for denial of regular bail to the petitioner. She further submitted that even otherwise also the petitioner has faced incarceration for more than 1 year and 5 months, and therefore, he may also be considered for grant of regular bail especially on the ground of parity.

3. On the other hand, Mr. Rajiv Verma, learned DAG, Punjab

while referring to the affidavit filed on behalf of the State has submitted that it is correct that the petitioner is in custody from more than 1 year and 5 months and it is also correct that the aforesaid co-accused, namely Rohit @ Cheeku and all the other co-accused have been extended the benefit of regular bail. He has however opposed the grant of regular bail to the petitioner on the ground that he is involved in four more cases.

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

5. The petitioner has faced incarceration for more than 1 year and 5 months and now 4 out of 15 witnesses have already been examined including the complainant. The petitioner is stated to be involved in four more cases. However, the learned counsel for the petitioner placed reliance upon the bail order which has been passed by the Co-ordinate Bench of this Court pertaining to co-accused, namely, Rohit @ Cheeku vide Annexure P-3. A perusal of the aforesaid order reveals that so far as the aforesaid co-accused is concerned, qua him at the best injuries No.7, 8 & 9 could be attributed which seem to be serious as per the MLR reproduced in the affidavit and the role attributed to the present petitioner was giving a *Khurchana* blow on the head and qua injury No.1 which was only a reddish swelling present around left side of head. The victim, namely, Sammi has already been examined and qua two other co-accused, he has not supported the prosecution version. But certainly he had filed a complaint against the aforesaid two co-accused as well and thereafter he retracted. A perusal of the status report by way of an affidavit of DSP would show that there is nothing stated in the affidavit pertaining to any apprehension of the State that in case the petitioner is released on bail then he may abscond or flee justice or may

influence the witnesses.

6. Therefore, considering the aforesaid totality of circumstances of the present case and particularly in view of the fact that the other co-accused, namely, Rohit @ Cheeku has already been extended the benefit of regular bail by a Co-ordinate Bench of this Court vide Annexure P-3, the present petitioner also deserves the concession of regular bail. Consequently, the present petition is allowed and the petitioner is ordered to be released on regular bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

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

27.07.2023

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |