

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

CRM-M No.29053 of 2022

Date of decision: 23rd January, 2023

Imamuddin

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Kamal Chaudhary, Advocate for the petitioner.

Mr. Rahul Mohan, Dy. Advocate General, Haryana
for the respondent/State.

Mr. Vikas Kumar, Advocate for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

This is second petition of the petitioner filed under Section 439 Cr.P.C. in case bearing FIR No.683 dated 26.11.2020 under Sections 323, 324, 341, 379-B, 427, 506, 34 IPC (Sections 326 & 307 IPC added later on) registered at Police Station Mujesar, District Faridabad.

On a pointed query put to the learned counsel for the petitioner as to what was the material change in circumstances subsequent to the dismissal of the previous petition seeking similar relief, on 27.05.2021, learned counsel submitted that when the order was passed the petitioner had been charged only under Section 326 IPC and his custody at that point in time was just about 5 months. Still

further, learned counsel has submitted that prosecution evidence had not commenced at that time. Thereafter, the petitioner had been charged under Section 307 IPC. Learned counsel has further submitted that as many as 18 prosecution witnesses have been cited and none of them has been examined after charges were framed under Section 307 IPC and hence, the trial will take considerable time to conclude. Learned counsel thus, submits that petitioner has now been in custody for more than 2 years having been arrested on 12.12.2020 and in the circumstances, his further incarceration would serve no useful purpose.

Per contra, learned State counsel assisted by learned counsel representing the complainant, while opposing the prayer and submissions made by the counsel opposite, has submitted that there are serious and specific allegations against the petitioner of attacking the complainant with a broken glass bottle, as a result of which his right ear was severed. He submits that the said injury was opined by the doctor to be dangerous to life.

Learned State counsel has not been able to dispute that none of the prosecution witnesses have been examined out of the 18 cited.

I have heard learned counsel for the parties and perused the relevant material on record.

The petitioner has now been in custody since 12.12.2020 and it is evident that the trial will take a considerable time to conclude

as prosecution evidence is yet to commence. In the circumstances, without commenting upon the merits of the case, this Court deems it fit to allow the instant petition. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. However, it is made clear that anything contained hereinabove shall not be construed to be an expression of opinion on the merits of the case.

In case the petitioner is found involved in any other criminal case, liberty is granted to the State to approach this Court for the cancellation of bail of the petitioner.

(MANJARI NEHRU KAUL)
JUDGE

January 23, 2023
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No