

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

CRM-M-33075-2023

Date of Decision: 21.09.2023

Anil Kumar

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Japjit Singh Johal, Advocate, for the petitioner.

Ms. Akshita Chauhan, Deputy Advocate General, Punjab.

Rajesh Bhardwaj, J. (ORAL)

Learned counsel for the petitioner at the outset has submitted that the petitioner is seeking bail in DDR No.13 dated 17.11.2010, which was registered as cross version in FIR No.40 dated 12.11.2010, under Sections 452, 323, 324, 326, 506, 148, 149, 340 IPC at Police Station Gardhiwala, District Hoshiarpur. He has submitted that inadvertently in the head note of the petition the same is not mentioned, but in para no.4 of the petition, the same has been mentioned.

In view of his oral request, now head note of the petition be read as under:-

Prayer in the present second petition is for the grant of regular bail to the petitioner in a case DDR No.13 dated 17.11.2010 registered under Sections 341, 323, 324, 506, 148, 149 IPC (Section 307 IPC added lateron), at Police Station Police Station Gardhiwala, District Hoshiarpur in FIR No.40 dated 12.11.2010, under Sections 452, 323, 324, 326, 506, 148, 149, 340 IPC at Police Station Gardhiwala, District Hoshiarpur.

Adumbrated facts of the case are that the occurrence in question took place on 05.11.2010, wherein, FIR No.40 was registered on

the statement of Vikas Dadwal. It was alleged in the FIR that the accused caused injuries to the complainant side with their respective weapons and thus, FIR was registered. However, 12 days thereafter, a cross case was registered against the complainant side on the statement of Baljit Kumar son of Mahinder Singh. In the cross case, allegations were made by Baljit Kumar that the petitioner was armed with *daat* caused injuries on the left shoulder of Baljit Kumar and thus, the present DDR No.13 was registered. The interim anticipatory bail was granted to the petitioner by the learned Additional Sessions Judge, Hoshiarpur who made the same absolute on 04.1.2014 taking into consideration the fact that the petitioner had already furnished bail/surety bonds before JMIC, Dasuya. Thereafter, the petitioner failed to appear before the Court and the bail granted to him was cancelled and bail bonds were forfeited to the State and petitioner was declared as proclaimed offender in the year 2015. Thereafter, the petitioner was arrested on 04.05.2017 and was granted bail on 17.07.2017. He again failed to appear before the Court and was declared proclaimed offender on 01.07.2022 and was again arrested on 24.09.2022 and since then he is behind bars. He approached the Court of learned Additional Sessions Judge, Hoshiarpur for the grant of regular bail, but the same was declined vide order dated 01.11.2022. Thereafter, the petitioner approached this Court by way of filing CRM-M-516-2023, however, the same was disposed of vide order dated 13.02.2023 for the reason that all the prosecution witnesses had been examined and the trial was at the fag end. Hence, the petitioner has approached this Court again by way of filing the present second petition for grant of bail.

Learned counsel for the petitioner has submitted that on the

application filed under Section 323 Cr.P.C. moved by the prosecution, learned JMIC vide order dated 07.06.2023 added Section 307 IPC. He has submitted that in the earlier petition filed by the petitioner before this Court, though this Court vide order dated 13.02.2023 disposed of the same for the reason that all the prosecution witnesses had been examined and the trial was at the fag end, but now the prosecution has filed application under Section 319 Cr.P.C. for summoning the other accused to face the trial alongwith the co-accused and hence, there are every chances of *de novo* trial and other application has been filed for taking voice sampling. He has submitted that cross version lodged against the petitioner was after 12 days of the lodging of the FIR and thus, the same has been lodged after due deliberation. He submits that even otherwise, the petitioner is alleged to have given *daat* blow on the shoulder of Baljit Kumar, which was not dangerous to life and thus, the offence under Section 307 IPC was not made out. It is submitted that in the facts and circumstances, the petitioner deserves to be granted bail.

On the other hand, learned State counsel has submitted that the presence of the petitioner has been duly established and there are specific allegations against him of causing injuries with *daat* on the shoulder of Baljit Kumar. She submits that the same is medically corroborated as well. However, she submits that as per instructions, application under Section 319 Cr.P.C. and other applications have been filed and the case is fixed for 05.10.2023 before the trial Court.

Heard.

It is evident that the occurrence in question had taken place on 05.11.2010 and the cross-version against the petitioner was lodged 12 days

thereafter, i.e. 17.11.2010. The petitioner is alleged to have given *daat* blow on the shoulder of Baljit Kumar. It is apparent that the case in hand is of version and cross version. Which party is the aggressor is to be determined by the trial Court on the basis of evidence to be led before it. This Court would refrain itself from commenting anything on merits of the case. However, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficiently long time in its conclusion.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

21.09.2023			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No