

CRM-M-33620-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-33620-2023 (O&M)

Date of decision: 20.07.2023

Munesh Bhardwaj @ Sardar

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Sahil Gupta, Advocate for the petitioner.

Mr. Karan Garg AAG Haryana.

Mr. Kanwal Goyal, Advocate and Mr. Govind Tanwar,
Advocate for the complainant.

ARUN MONGA, J. (Oral)

CRM-29567-2023

Application is allowed as prayed for. Documents contained at
Annexures P-11 to P13 are taken on record, subject to all just exceptions.

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Petitioner seeks bail in a case bearing FIR No.724 dated 19.12.2021
(Annexure P-1), registered under Sections 147, 148, 323, 325, 506, 307 read with
Section 149 of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station
Mujessar, District Faridabad, Haryana.

2. Per prosecution, on 18.12.2021, Lal Chand came at the scene of
occurrence and asked the complainant to remove his construction material lying
there, as he used to park his car there. Thereafter, Lal Chand called his sons and
got into heated altercation with the complainant. The accused allegedly gave
danda blows to him and his brother Yogesh Bansal on their head. Complainant

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and his brother got themselves medico-legally examined in B.K. Hospital and reported the matter to Police. However, the matter was later amicably settled.

2.1 But, on the following day i.e., on 19.12.2021, Munesh Bhardwaj alias Sardar (present petitioner), Lal Chand, Hemraj, Jai (Himanshu) and wife of Lal Chand along with 3/4 boys again came and physically assaulted complainant and his family members. They inflicted injuries on complainant, his brother, namely, Yogesh Bansal and father Shiv Kumar Bansal, besides Mukesh Bansal and Tejpal Goyal. Matter was reported to the Police. Instant FIR was registered. Petitioner was arrested and is in custody since 24.02.2022.

3. Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case. It is a case of version and cross-version. Two persons from their group, namely, Munesh Bhardwaj (petitioner) and Hemraj Bhardwaj also sustained grievous injuries. Learned counsel would further submit that whole of the incident was recorded in CCTV footage, which was also circulated in social media. Petitioner is named in the FIR, even though no specific role has been attributed to him. He further submits that petitioner is the sole breadwinner of his family and has two minor children to look after. Petitioner is not involved in any other case.

3.1. Learned counsel for the petitioner further urges that injured Mukesh deliberately got himself admitted in a private hospital to get self serving medical report qua his injuries. Based on such report, alleged injuries suffered by said Mukesh have falsely been declared dangerous to life and Section 307 IPC is thus illegally invoked in the present case. He further states that question whether the injuries suffered by injured Mukesh were dangerous to life or not, is a debatable issue and is to be determined in the trial.

3.2. Learned counsel further contends that similarly situated co-accused namely Bimla Devi and Hemraj have already been granted concession of regular

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bail by a coordinate Bench of this Court vide orders contained at Annexures P-6 and P-7, respectively. As such, petitioner is entitled to concession of bail on parity also. Moreover, father of the petitioner is suffering from cancer and presence of petitioner is required for taking care of his medical needs.

4. On the other hand, learned State counsel assisted by learned counsel for complainant, opposes the bail petition. He submits that petitioner has committed a serious offence and he is prime accused, who has been attributed the injury sustained by injured Mukesh Goel (PW-2), which was declared dangerous to life.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. Challan has been presented against the petitioner and charges have been framed. Being so, petitioner is not required for any further custodial interrogation and is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/ or influence witnesses, particularly when he has clean antecedents. Petitioner has already been languishing in jail for the past around 01 year and 05 months, he being behind bars since 24.02.2022. Material witnesses including the complainant have already been examined. Conclusion of trial is still likely to take a long time. Bail allows an accused to maintain his freedom until his guilt or innocence is determined.

7. Petitioner is 40-year old family man and has wife and two minor school going children to look after, who have been deprived of care and protection of their father and the family is living in sheer penury in his absence. He has the added responsibility of looking after his ailing father, who is a known patient of cancer. Being married person, family responsibilities and fixed abode, having clean antecedents, he poses no flight risk or threat to the society at large.

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8. Co-accused namely Bimla Devi and Hemraj have already been granted concession of bail vide order dated 29.08.2022 and 24.04.2023 by a coordinate Bench of this Court. In any case, allegations against petitioner are a matter of trial at this stage. Bail allows an accused to maintain his freedom until his guilt or innocence is determined.
9. Considering the overall scenario and without commenting on merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep petitioner in further preventive custody in instant case.
10. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Magistrate, as the case may be.
11. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.
12. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits the case as the same are for the limited purpose of hearing the instant bail petition alone and learned trial Court shall proceed without being influenced with this order.
13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

July 20, 2023
Ajay

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