

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

232

2023:PHHC:152828

CRM-M-34700-2023

Date of decision: November 30th, 2023

Rajat @ Toni

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Robin Singh Hooda, Advocate
for the petitioner.

Mr. Rahul Mohan, Senior Deputy Advocate General,
Haryana.

MANJARI NEHRU KAUL, J.

This is a third petition filed by the petitioner seeking the concession of regular bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.113 dated 24.04.2020 under Sections 323, 379-B, 506, 34 of the IPC (Section 302, 325, 201 of the IPC added later on) registered at Police Station Industrial Area, District Bhiwani.

2. Learned counsel for the petitioner, *inter alia*, submits that a false and fabricated case has been planted upon the petitioner, which is evident from the fact that after the occurrence in question, which allegedly took place during the night of 21.04.2020, when the complainant (injured) along with deceased-Satender were admitted to the hospital in Bhiwani, they told the doctor that they had received injuries in a roadside accident; subsequently the complainant improved upon his initial version and alleged that he along with his friend i.e. the deceased, were attacked by the owner of the hotel (place of occurrence) i.e. the petitioner, with a wooden baton, as a result of which they sustained injuries including the fatal injuries on the person of the

deceased. Learned counsel submits that this improvement and that too after two days of the alleged occurrence thus, makes it abundantly clear that the petitioner is innocent. It has further been submitted that the petitioner has been in custody since 13.05.2020 and till date, the prosecution evidence has not concluded, hence, he be enlarged on bail more so since the injured witness/complainant PW-3 has already been examined.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has reiterated the following allegations levelled in the FIR:-

“one of my friend Vikas Gaur R/o Lohar Bazaar, Bhiwani presently is living in Karnal, has come to Bhiwani since last few days, that on dated 21.04.2020 me and my another friend Satender alias Billu who is working with me in HDFC Bank itself we were together then my contact was made with Vikas Gaur who said that I am staying in the hotel of my brother Rakesh Gaur at Gaur Guest House you may also come whereby me and Satender went to Vikas in my Car at Gaur Guest House, that we all three had meals there thereafter me and Satender slept in a room of the hotel and Vikas went out from the room, that after some time I hard noise of arguments whereby I got up and saw that Vikas was arguing with Devender who is friend of nephew Tony of owner of the Hotel Rakesh and a door of the room of the Hotel was broken, that I exhorted both of them that it's a mutual issue so we may discuss in the morning, that during that time nephew of owner of the Hotel Rakesh Gaur namely Tone and a boy working in the Hotel to whom they were addressing as Prem alias Chamoli came there, Tony was carrying a baton, As soon as Tony came he started

hitting me with baton and Devender and Prem alias Chamoli started kicking and punching me, that Tony attacked me with baton upon my left hand's elbow and gave one blow of baton upon my head and also gave many blows of baton upon my waist and feet, that due to sustaining injury upon my head I fell down there itself, that Vikas tried to rescue me then Tony said you are our Uncle in relationship, so you may not interfere as we are on same page and set him aside thereafter boy working in the hotel namely Prem alias Chamoli said to Tony that his friend is sleeping in the room downstairs whereby all three of them reached the room where Satender was sleeping and while giving injuries to Satender and brought him to me and thrown him and while Satender was lying down, Tony attacked him with baton upon his head, that Satender fell unconscious there itself, even thereafter all three of them attacked Satender with baton, kicks and punches despite himself being in unconscious condition and gave lot of injuries to him thereafter they snatched our phone by saying that they may call someone and forcibly took out sum of Rs. 2500/- from the pocket of my trouser and sum of Rs. 11000 from the pocket of trouser of Satender and said that with this money we shall make good the loss to the Hotel and thereafter they get us naked and shot our video film and said that we shall level allegation of theft against you and shall lodge you in jail and shall get your video viral, thereafter I beseech them by saying that we were not having any dispute with you why are you beating us we were not having any altercation with you why are you beating us, let us go whereby Tony said that ask your friend to get up and run from here, then I wore my cloths and Satender also wore his cloths and I made Satender to lay in my Car and about to proceed from there all three of them came out and said if you engage the police then

we shall kill you and shall get your video viral and returned our snatched phones to us, thereafter I brought Satender in my Car to Kadam Hospital and we were admitted here, that action may be initiated against above named.”

4. Learned State counsel has further submitted that the petitioner is a man of criminal antecedents as he is involved in another criminal case. It has also been submitted that while stepping into the witness box, the complainant, who is also a stamped witness, had supported the case of the prosecution *in toto*. Learned State counsel, on further instructions, has informed the Court that all the material witnesses already stand examined and only formal witnesses remain to be examined and thus, there is every likelihood that the trial would not take much time to conclude.

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

6. *Prima facie*, there are serious allegations against the petitioner of having attacked the complainant as well as the deceased with a wooden baton while they were at his hotel. The stamped witness complainant and the deceased were removed in an injured condition to the hospital soon after the alleged occurrence. The petitioner is also stated to be involved in another criminal case. This Court, in the facts and circumstances and in the manner in which the petitioner has given effect to the crime in question, does not deem it fit to enlarge him on bail, more so, when the complainant has supported the case of the prosecution and only formal witnesses now remain to be examined.

7. The instant petition, therefore, stands dismissed.

8. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.
9. A request at this stage has been made by the learned counsel for the petitioner that since the petitioner has been in custody for more than three years having been arrested on 13.05.2020, the trial Court be directed to expedite the trial.
10. The trial Court, in view of the long incarceration of the petitioner, is directed to make earnest efforts to conclude the trial preferably within five months from today.

November 30th, 2023
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No