

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

CRM-M-35506-2023

Date of Decision:-25.09.2023

Gaurav Sheel.

.....Petitioner.

Vs.

State of Punjab & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Jasmeet Singh Ghuman, Advocate for the Petitioner.

Mr. Harkanwar Jeet Singh, Assistant Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this third petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.0145 dated 24.05.2023 under Sections 307, 34 IPC registered at Police Station Rama Mandi, District Police Commissionerate, Jalandhar.

2. The brief facts of the case are that the statement of Rahul was recorded to the effect that on 23.05.2023 at around 9.30 pm he had gone to Nitishree Flats to meet his friend Shivam Bhogal. They were travelling in Shivam Bhogal's Jeep, while his friend Shivam was sitting on the front seat. Near Trinity College a Yamaha Motor Cycle approached from the side of Sharma Sweets Shop and parked the motor cycle in front of the jeep. The rider of the motor cycle attempted to forcibly snatch the jeep's key. Meanwhile another motor cycle arrived with two individuals who had short cropped hair. A scuffle ensued and he (complainant) received a blow on the right side of his face to which he responded with a fist blow. Thereafter

he (complainant) brought out a sharp edged weapon from the jeep which had been kept for his safety. On account of a scuffle the weapon fell down and the rider of the other motor cycle picked up the sharp edged weapon from the ground and attempted to attack him-Rahul (complainant). Shivam Bhogal came to his (complainant's) aid and positioned his right hand in front. Shivam Bhogal's right arm was amputated and fell on the ground. Another blow was given to him (Shivam Bhogal) causing serious injuries. When he (complainant) tried to intervene a third blow was given on the head of Shivam Bhogal causing severe injuries. He (complainant) also received serious injuries to his neck from sharp edged weapons. Upon raising an alarm the accused fled away from the spot. The driver of the motor cycle was identified as Gaurav Sheel (petitioner) and the rider of the second motor cycle was identified as Ashish who had inflicted serious injuries with an intention to kill.

During the course of investigation, Ashish was arrested on 25.05.2023 and got recovered a *Khanda*.

The petitioner got recorded a cross case under Section 323, 324, 341 IPC vide DDR No.43 dated 25.5.2023.

Subsequently the statement of Shivam Bhogal was recorded under Section 161 Cr.PC after which the report under Section 173 Cr.PC was submitted against the accused.

3. The counsel for the petitioner contends that the instant case is one of road rage and of version and cross version. The Cross case stands registered against the present complainant party vide DDR No.43 dated 25.05.2023 under Sections 323, 324, 341 IPC (P-2) at the instance of the petitioner whereby the petitioner has received injuries. Even the weapon of offence was brought out by the complainant and not by the petitioner side.

So far as the present petitioner is concerned, no specific injury has been attributed to him and the main injury leading to the amputation of the arm of Shivam Bhogal has been attributed to Ashish. As the petitioner was in custody since 28.05.2023 and none of the 17 prosecution witnesses had been examined so far, he was entitled to the concession of bail as he was a first time offender with no criminal antecedents.

4. The Counsel for the State on the other hand has filed a reply by way of short affidavit of Mr. Nirmal Singh, Assistant Commissioner of Police, Central, Jalandhar in court today. The Same is taken on record. By referring to the same, he contends that serious allegations have been levelled against the petitioner and his co-accused. The amputation of the arm of Shivam Bhogal has taken place and, therefore, the petitioner was not entitled to the concession of bail. He however concedes that the petitioner is a first time offender, in custody since 28.05.2023 and none of 17 prosecution witnesses have been examined so far. He also admits that the cross version was registered at the instance of the petitioner who himself has suffered injuries.

5. I have heard the learned counsel for the parties.

6. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the injury leading to the amputation of the right arm of Shivam Bhogal has not been attributed to the petitioner. He is a first time offender in custody since 28.05.2023 and none of the 17 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation his further incarceration is not allowed.

7. Thus without commenting on the merits of the case, the present

petition is allowed and the petitioner-**Gaurav Sheel** son of Sh. Sanjay Kumar is ordered to be released on bail subject to her furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.

9. If the petitioner or any of his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this Court.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

September 25, 2023
Vinay

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