

CRM-M-35793 of 2023

2023:PHHC:129078

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

CRM-M-35793 of 2023

Date of decision: 05.10.2023

Karan Kumar

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Naveen Bawa, Advocate,
for the petitioner.

Mr. P.S. Bajwa, Addl. A.G., Punjab.

NAMIT KUMAR, J.

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.231 dated 28.12.2015 under Sections 307, 382, 323, 341, 506, 148, 149 IPC, registered at Police Station Division No.6, Industrial Area, District Ludhiana.

2. Present FIR was registered against the petitioner and others on the statement of complainant Sunny Verma son of Tarsem Verma, resident of 4597/1, Street No.3, Shivaji Nagar, Police Station Division No.6, Ludhiana on the allegations that on 27.12.2015, he along-with his brother Himanshu Verma had gone to birthday party of their common friend Rahul, at Tasty Bite Restaurant and after the party he along-with his brother Himanshu at 10.40 p.m. was returning to their house on their motorcycle and from the park, constructed opposite Tasty Bite Restaurant, Akash @ Kasha, armed with *Datar*, Kala Ferozpuria armed with *sua* (Awl), Deepu Kanganwal, who is brother-in-law of Aakash Kasha, Karan Kumar (present

CRM-M-35793 of 2023

2023:PHHC:129078

petitioner), Kuldeep Kumar @ Lallu, Angad @ Angu and Mana all armed with *Datars* alongwith 15-20 other persons, armed with weapons, came while raising *lalkaras* and started inflicting injuries upon them with weapons, due to which his brother Himanshu Verma fell down from the motorcycle. Akash @ Kasha gave *Datar* blow on the head of his brother with the intention to kill him and his brother Himanshu raised his left hand, which hit on the palm of left hand of his brother. His brother tried to run away, then all accused encircled him and his brother. Aakash @ Kasa gave *Datar* blow on the head of his brother, which struck on the back of head of his brother. Then Akash @ Kasa gave blow from the reverse side of *Datar* on the head of his brother, which hit on the nose of his brother and next blow given by Akash @ Kasa hit under the left knee of his brother, Kala Ferozpura gave *sua* (awl) blows, which hit on the chest of his brother on left side below the heart, he gave second blow, which hit on left side of chest of his brother, Kala Ferozepuria gave third blow with *sua* (awl) on the stomach of his brother. His brother ran away towards side street while raising hue and cry and complainant ran away towards other side and while complainant was running, Karan Kumar (petitioner) gave *Datar* blows, which hit on the back and front on his neck and right arm. Deep Kanganwal snatched his mobile i.phone 4 S, Kuldip Kumar @ Lallu, Angad Kumar @ Angu and Mana started raising *lalkaras* loudly that both the brothers have identified them, so do not allow them to run and kill them. Complainant and his brother raised hue and cry, upon which aforesaid assailants ran away along with their weapons on their different scooters, motorcycles and Swift Dzire car. The motive behind the occurrence was that few days back Deepu Kanganwal and his brother-in-law Aakash @ Kasa had met with an accident

CRM-M-35793 of 2023

2023:PHHC:129078

at Janakpuri turn and his brother Himanshu Verma and Sandeep Singh had stopped them from creating nuisance on the road due to which both the accused entered into quarrel with Himanshu Verma his brother and Sandeep. Thereafter, after arranging the vehicle, complainant took his brother Himanshu Verma to CMC Hospital, Ludhiana where his condition was serious.

3. Learned counsel for the petitioner submitted that the petitioner is innocent and has been falsely implicated in the present case. He further contended that neither the petitioner was armed with any weapon nor he caused any injury to Sunny Verma. He further submitted that during trial PW1 Sahil Verma @ Sunny Verma, complainant failed to identify the accused present in the Court. He stated that they were not assailants who attacked them on that date. He further submitted that he had seen them in Court for the first time and did not know the names of persons who attacked on them. He further stated that his statement was not recorded by the police. As the complainant did not support the prosecution version, he has been declared hostile. Learned counsel further submitted that PW2 Himanshu Verma, injured has also not supported the prosecution case. In his statement injured has stated that the accused present in Court were not those persons who attacked on them on the day of occurrence. Learned counsel further submitted that material witnesses in the present case have been examined and they have not supported the prosecution version. He further submitted that co-accused, namely, Joginderpal Singh alias Kala Ferozepuria and Sonu Naggar alias Sonu alias Bunda have been granted regular bail by the Court of learned Additional Sessions Judge, Ludhiana, vide orders dated 17.02.2022 and 29.03.2022, respectively and co-accused

CRM-M-35793 of 2023

2023:PHHC:129078

Shubham Sidhu @ Ganju has been acquitted by learned Additional Sessions Judge, Ludhiana, vide judgment dated 15.05.2017. He further submits that petitioner is in custody since 26.05.2022. Learned counsel further submitted that investigation in the present case is complete; challan has been presented; charges have been framed; out of 14 prosecution witnesses three witnesses have been examined and now the case is fixed before the trial Court on 12.10.2023. Petitioner is not involved in any other case. Trial may take a considerable time to conclude. Therefore, no fruitful purpose would be served by detaining the petitioner behind bars.

4. *Per contra*, learned State counsel, while placing on record custody certificate and status report dated 04.10.2023 opposed the prayer for grant of regular bail to the petitioner by submitting that petitioner gave blows of *datar* on the backside and front side of his neck and over right arm of complainant-Sunny Verma. However, he could not dispute that complainant and injured have not supported the prosecution version; investigation in the present case is complete; challan has been presented; charges have been framed; out of 14 prosecution witnesses three witnesses have been examined; now the case is fixed before the trial Court on 12.10.2023; petitioner is not involved in any other case; two co-accused have been granted regular by the trial Court and one has been acquitted.

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

6. Keeping in view the custody of the petitioner, which is 01 year 04 months and 09 days; material witnesses have resiled from their statements and have not supported the case of the prosecution; co-accused have been granted bail and one has been acquitted; petitioner is not

CRM-M-35793 of 2023

2023:PHHC:129078

involved in any other case; investigation is complete; challan has been presented; charges have been framed and out of 14 witnesses, three prosecution witnesses have been examined and trial is likely to take a considerable time, however, without commenting upon the merits of the case, the petitioner is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

7. The petition stands disposed of accordingly.

05.10.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No