

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

CRM-M-39554-2023

Date of Decision:-09.10.2023

Ganesh.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

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

Present:- Mr. Shailender Singh Momi, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, Assistant Advocate General,
Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.642 dated 22.12.2022 under Sections 323, 308, 452, 506 IPC registered at Police Station Thanesar City, District Kurukshetra.

2. The present FIR came to be registered at the instance of Sukhdev Singh who states that Ganesh (petitioner) who was armed with an Axe had given several blows with the same to his brother Gurbax on his head and when he (complainant) tried to catch him, Ganesh had run away from the spot. Ganesh had attacked his brother with an intention to kill him.

3. The counsel for the petitioner contends that two material witnesses namely complainant-Sukhdev Singh has been examined as PW-3 whereas injured Gurbax Singh has been examined as PW-4 and none of

them have supported the case of the prosecution. As the petitioner was in custody since 23.12.2022 and only 05 out of 12 prosecution witnesses had been examined so far, the trial of the present case was not likely to be concluded anytime and therefore, the petitioner was entitled to the concession of bail.

4. The Counsel for the State on the other hand contends that though the complainant and the injured witness had turned hostile, when they were cross examined by the PP for the State they have more or less supported the prosecution case and, therefore, it could not be held that the witnesses had turned hostile entitling the petitioner to the grant of bail. He however concedes that the petitioner is in custody since 23.12.2022, only 05 out of 12 prosecution witnesses have been examined so far and that the petitioner is a first time offender.

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

6. The veracity of the prosecution case against the petitioner shall be established during the course of the Trial. Admittedly, the petitioner is in custody since 23.12.2022 and only 05 out of 12 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this view of the matter, his further incarceration is not required.

7. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner-**Ganesh** son of Sh. Raghunath Singh is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any other case other than the

cases mentioned this order.

10. In addition, the petitioner (or someone 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

October 09, 2023

Vinay

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