

CRM-M-40842-2023
Date of decision: 22.11.2023

Tripti DeviPetitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vinod K. Kaushal, Advocate
for the petitioner.

Mr. I.P.S.Sabharwal, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. seeking regular bail in a case bearing FIR No.55 dated 07.07.2023 under Sections 308/323/324/325/504/506/34 of IPC registered at Police Station Sadar Phagwara, District Kapurthala.

Brief facts of the case are that on 05.07.2023, the complainant along with his cousin-Gurpreet Singh, went to a dairy shop and when they reached near the Haveli of Ram Lubhaiya, they were stopped by Ram Lubhaiya, his wife/petitioner-Tripta Devi and their sons, namely, Manish Dadra and Gaurav Dadra who started hurling abuses and threatened them, due to which, they ran away and left the spot. Thereafter, the complainant was again restrained by the aforesaid persons outside their house, however, his cousin Gurpreet Singh fled away from the spot and Manish Dadra & Gaurav Dadra gave fist blows to the complainant. Ram Lubhaiya and the present petitioner-Tripta Devi brought *kirpan* and baseball bat from their house, respectively and

with an intention to kill, Ram Lubhaiya gave *kirpan* blow on the head of the complainant, resultantly, the complainant fell down on the ground. In the meantime, mother of the complainant, namely, Baljit Kaur reached at the spot and when she tried to rescue the complainant, the petitioner-Tripta Devi gave baseball bat blow at the left leg of Baljit Kaur. Then Ram Lubhaiya after giving filthy abuse, took baseball bat from his wife/petitioner-Tripa Devi and gave another blow on the left leg of Baljit Kaur. Thereafter, Manish Dadra, despite knowing the impact, gave a brick-bat blow at the head of Baljit Kaur and she became unconscious. The said Gaurav Dadra also gave brick-bat blow on the left hand fingers of the complainant. Afterwards, when people gathered at the spot, all the assailants ran away from the spot with their respective weapons while threatening the complainant party. Complainant and his mother-Baljit Kaur were moved to the Civil Hospital, Phagwara by one Manpreet Singh. Due to serious condition of the mother of the complainant, she was referred to some other hospital and as per her medical report, she had a fracture in her left leg and head. The injury No.1 on the person of complainant was also declared sharp and, thus, the present FIR was got registered.

Learned counsel for the petitioner *inter alia* contends that it is a case of version and cross-version and the petitioner has been falsely implicated in the present case. The injured has already been discharged in a satisfactory condition and cross-version was recorded on the statement of husband of the petitioner vide DDR No.019 dated 10.07.2023. The petitioner is a lady and she is not involved in any other case and the Investigating Agency has already completed the investigation.

Per contra, the learned State counsel has opposed the grant of

regular bail to the petitioner on the ground that she has actively participated in the alleged incident and her participation is fully established as such she does not deserve the concession of regular bail.

A two Judge Bench of Hon'ble Supreme Court in '**Satender Kumar Antil v. CBI**' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

Having heard learned counsel for the parties and perusing the records of the case, it transpires that the petitioner is behind the bars since 07.07.2023. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court on 05.09.2023 and trial of the case has not made much progress as out of 16 prosecution witnesses, none has

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been examined so far.

Keeping in view the facts and circumstances of the case, the fact that the petitioner is not involved in any other case and the likelihood of trial being prolonged, the present petition is allowed. Culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Tripta Devi is ordered to be released on regular bail during trial on her furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

22.11.2023
Neha

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