

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

CRM-M-42499-2023

Date of decision : 04.09.2023

ABHINAV @ ABHI

....Petitioner

Versus

STATE OF PUNJAB

....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Arshit Goel, Advocate
for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.23 dated 8th of February, 2022 registered for the offences punishable under Sections 307, 323, 34 of the Indian Penal Code, 1860 (Sections 341, 325 IPC added later on) at Police Station Civil Lines, District Patiala.

2. Custody Certificate of the petitioner has been filed today in Court. The same is taken on record.

3. Counsel for the petitioner submits that the petitioner is behind bars for last more than 1 year, 6 months and 23 days. He has no criminal antecedents. Not only the Challan stands presented but the trial has also proceeded considerably. However, the same is being delayed for the reason that the complainant himself has moved out of country and now stands

settled in New Zealand. He further relies upon the order dated 8th of August, 2023 passed by this Court in CRM-M No.53576 of 2022 whereby co-accused Pawan Kumar stands admitted to bail observing as under :

“3. Petitioner stands booked with the following allegations :

“Statement of Dalbir Singh Dhaliwal son of Sh. Harvinderpal Singh resident of House No.117, North Avenue, Bhadson Road Patiala aged 28 years mobile Number 98788-70017. Stated that I am resident of above noted address and is residing in New Zealand country from the last 10 years. I had returned to India on 16.11.2011. My father Harinderpal Singh died 15 years ago and I am residing along with my mother in my house. On 06.02.2022, I along with my mother Rajwinder Kaur were present in our house and at about 4.30 p.m., someone started blowing horn in front of the gate of our house. I went outside and saw that two persons were sitting in Scorpio car No.PB-11BA-6899. The name of the driver of the car is namely Abi son of Pawan Kumar and the person sitting in car namely Pawan Kumar son of Ram Tilak resident of Bhadson Road, Patiala. Then the I asked to the driver of the car that the reason of blowing horn, then he reversed his car a little and parked his car there. Then both of them armed with swords (Kirpans) and rods came out of their car and when I tried to enter his house after seeing them, both of them encircled me. Then abi who was having iron rod in his hand hit me on the right side of his head with the intention to kill me and Pawan Kumar hit me with his sword on the left side of my head. Then ABI hit me with his iron rod on my left jaw. When his mother Rajwinder Kaur came forward to save me, then Abi picked brick from the street and hit my mother on her head with the intention to kill her due to which my mother became unconscious on the spot. Then both the accused ran away on the spot with their respective weapons. Then our neighbors arranged the vehicle and got admitted me and my mother Rajinder Kaur to the Manipal hospital. we are under treatment there, I failed to find my gold Kara, worn during fight. The legal action be taken against above noted persons.”

4. Counsel for the petitioner submits that the petitioner is behind bars since 11th of February, 2022. He was accused of having given sword blow on the head of the victim whereas as per the MLR the doctor opined that it is a lacerated wound and thus it is

highly improbable that it was caused by sharp-edged weapon. Investigation already stands concluded. Trial has proceeded further. Victim is in New Zealand and the material witness i.e. the doctor already stands examined.

5. Counsel for the State however submits that keeping in view the mode and manner in which the injury was caused, the petitioner does not deserve concession of bail.

6. I have heard counsel for the parties and have gone through records of the case.

7. Without commenting on the merits of the case, keeping in view the incarceration already suffered by the petitioner and the fact that the same cannot be prolonged as punitive measure, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.”

4. The prayer for bail made on behalf of the petitioner is opposed by the State Counsel submitting that the petitioner has been assigned specific role as per which he caused serious injury to Rajwinder Kaur which stands corroborated by medical evidence and the doctors have opined the same to be grievous in nature.

5. Having heard counsel for the parties and after going through records of the case, this Court finds that there is no tangible reason for not granting parity to the petitioner and as per settled law the incarceration already suffered by the petitioner cannot be prolonged as a punitive measure. Resultantly, the present petition is allowed relying upon concession of bail granted to co-accused Pawan Kumar. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to

the satisfaction of the Trial Court/Duty Magistrate concerned.

6. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

September 04, 2023		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No