

CRM-M-42770-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 13.10.2023

Updesh

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Ms. Pooja Jaglan, Advocate for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

Mr. Balkar Singh, Advocate for the complainant.

ARUN MONGA, J. (Oral)

Following the denial of bail by learned trial court, the petitioner is now before this Court seeking his release as an undertrial in a case with FIR No. 259 dated May 09, 2023, registered under Section 323, 324, 452 of the Indian Penal Code, 1860 (for short 'IPC'), (Section 307 IPC was added later on), at the Sector 29 Industrial Area, Police Station in Panipat.

2. According to the prosecution's account, on May 9, 2023, information was received that Krishna (the complainant/injured), the wife of Dharmpal, had been admitted to Park Hospital after sustaining injuries in a quarrel. Subsequently, SI Rajesh Kumar, along with HC Manjeet, reached the hospital. She made a statement alleging that on that day, at about 6:15 a.m., she went to the roof of her house to provide water for the birds. She had not been on speaking terms with her brother-in-law's (Devar's) family for about eight years. Her Devar's family had harbored resentment against her family, and for that reason, the petitioner, who is her Devar's son, armed with a knife, attacked her, inflicting various injuries on her face and other parts of her body approximately 7 or 8 times. Upon hearing their cries, the complainant's family members rushed to their rescue and transported

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them to Park Hospital for treatment. Subsequently, an FIR was registered, and the petitioner was arrested on May 11, 2023.

3. The learned counsel for the petitioner refers to the records of a private hospital, Park Hospital, where the complainant underwent a medical examination. A case of grievous injury has been claimed when none exists. She points out that when the complainant was examined by a Senior Government Medical Officer, Professor, Department of Surgery at Kalpana Chawla Government Medical College, Karnal, based on an opinion dated July 5, 2023, none of the injuries were classified as grievous. She relies on the discharge slip, Annexure P-5, which the complainant herself provided at the police station. She further submits that no Medico-Legal Report (MLR) was ever conducted by the police officials, yet a case under Section 307 IPC has been established solely based on the complainant's allegations.

3.1. Furthermore, it is asserted that the FIR was registered based on a concocted version provided by the complainant. In fact, family members of the complainant have assaulted the petitioner, resulting in his sustaining multiple unexplained injuries.

3.2. The petitioner's counsel also contends that there is no need for further custodial interrogation of the petitioner, as nothing remains to be recovered from him. Moreover, there is no indication that the petitioner would tamper with evidence or influence prosecution witnesses.

3.3. He further submits that the petitioner has been in custody since May 11, 2023, and the challan has already been presented. The trial's conclusion will likely take a long time; therefore, keeping the petitioner behind bars would not serve any useful purpose. The petitioner is not involved in any other case.

4. On the contrary, the learned State counsel strenuously opposes the petition, expressing concerns about the possibility of the petitioner fleeing from

trial proceedings if granted bail. He submits that the allegations against the petitioner are serious as alleged knife has been recovered from his possession. Keeping in view the gravity of offence, petitioner is not entitled to concession of bail. He, however, admits that petitioner is not involved in any other case.

5. I have heard the rival arguments and reviewed the case file.

6. In response to a query from the Court, it transpires that the investigation against the petitioner has been completed, and challan was presented on July 10, 2023. Charges have not been framed. At this stage, the allegations against the petitioner are subject to trial. The trial's progress has been slow, and it is anticipated to take a considerable amount of time. Bail serves the purpose of allowing an accused to remain free until their guilt or innocence is determined. In contrast, the petitioner has been in detention since May 11, 2023, for more than five months.

7. The petitioner's continued preventive custody is based on an unsubstantiated suspicion that he might tamper with evidence or influence witnesses.

8. Petitioner is stated to be 28-year old unmarried person with added responsibility of looking after his old aged parents. As a responsible family man and a stable residence and clean antecedents, the petitioner is unlikely to pose a flight risk or evade trial proceedings.

9. Considering the overall scenario, without commenting on merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep petitioner in further preventive custody.

10. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

11. It is made clear that apart from the other bail conditions, the Court below shall take an undertaking from the petitioner that he shall not contact the complainant either directly or indirectly during the pendency of the trial unless of-course the parties decided to mutually settle their differences since it appears to be a case of family dispute.
12. In case, petitioner is found involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.
13. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits the case as the same are for the limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.
14. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

October 13, 2023
Ajay

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