

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

CRM-M-43042-2023

Date of Decision:-30.11.2023

Sandeep.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

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

Present:- Mr. Rajneesh K. Gupta, Advocate,
Mr. Lakhwinder Ram, Advocate &
Mr. Sachin, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, AAG Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this second petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.41 dated 09.03.2023 under Sections 148, 149, 323, 325 (added later on), 506, 120-B, 307 IPC (added later on) registered at Police Station Titram, District Kaithal.

2. The present FIR came to be registered on the basis of the statement of Vikram who stated that on 08.03.2023 his brother Sandeep was watching a game of cards at bus stand village Sisle. While watching the game his brother Sandeep had an altercation with one Gurdev. Later in the day, while he (complainant) was watching the cricket match in the village stadium then on motor cycles 04 young persons namely Mohit who was armed with *gandasi* and Suraj was armed with an *Iron rod* came there. One of the other two youngsters was driving the motor cycle whereas the other

unknown person was armed with *danda*. They all attacked him (complainant). Mohit gave a *gandasi* blow on his right hand and Suraj gave an *iron rod* blow on his head. One youngster gave many *danda* blows and the other youngster gave fist blows to him. On his raising a hue and cry the assailants left the spot with their respective weapons on their motor cycles and he was got admitted in the hospital.

Pursuant to the registration of the FIR, the complainant who had been initially taken to a hospital at Kaithal was later admitted in PGI, Chandigarh and based on the CT Scan report etc., injury no.2 was reported as grievous and Section 325 along with 120-B IPC were added in the case.

During the investigation Mohit and Gurdev disclosed the name of the present petitioner and accused Mohit got recovered a motor cycle bearing no.HR-08-M-5257 and a *gandasi* used in the crime.

Accused Suraj was found to be a juvenile. He got recovered an iron rod used in the offence. On 29.04.2023 based on the medical evidence available from the PGI, Chandigarh, the injury was declared dangerous to life on the basis of which Section 307 IPC was invoked.

On 20.05.2023 the petitioner was arrested and suffered his disclosure statement leading to the recovery of a *danda*.

Co-accused Ravi was joined in the investigation on 7.6.2023.

3. The Counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. He has not been named in the FIR. All the other co-accused have been granted the concession of bail either by this Court or by the Trial Court. Though the injury attracting Section 307 IPC has been attributed to the petitioner on the abdomen of the complainant/injured, the said opinion has been procured. However, taking the allegations to be correct, the injured has since been discharged from the

hospital in April, 2023 itself and is currently hale and hearty not having suffered any permanent impairment. As the petitioner was in custody since 21.05.2023 and the recording of the prosecution evidence had not yet begun, the Trial of the present case was not likely to be concluded in the near future and therefore, the petitioner was entitled to the concession of bail, more so when in the three other cases pending against him bearing FIR No.81 dated 20.05.2023 under Sections 323, 325, 452, 34, 506 IPC P.S. Titram, Kaithal, FIR No.109 of 2020 under Sections 148, 149 IPC, 323, 325, 452, 201 IPC P.S. Titram, Kaithal and FIR No.41 of 2019 under Sections 323, 341, 506, 34, 325, 201 IPC P.S. Titram, Kaithal he had already been granted the concession of bail.

4. The Counsel for State on the other hand contends that the petitioner is the main accused. He gave injuries with a stick on the stomach of the injured and the doctor declared the said injury to be dangerous to life vide opinion dated 29.04.2023. He was also an undertrial in three other cases. Therefore, the nature of the allegations levelled against the petitioner along with his criminal antecedents did not entitle him to the grant of bail. He however, concedes that the petitioner is in custody since 21.05.2023, none of the prosecution witnesses have been examined so far and that the complainant/injured Vikram is hale and hearty.

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

6. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is in custody since 21.05.2023 and none of the prosecution witnesses have been examined so far. The injured is in a healthy condition. In the other cases pending against the petitioner he had been granted the concession of bail. Therefore, his further incarceration in the

present case is not required, more so when the Trial is not likely to be concluded anytime soon.

9. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Sandeep Kumar** son of Sh. Ram Kumar is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

10. If the petitioner or any of his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this Court.

11. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.

12. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- 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.

12. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

November 30, 2023

Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>