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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-43852-2023 (O&M)
Date of decision: September 12, 2023

Rakesh Kumar @ Rohit Kumar
....Petitioner
versus
State of Punjab
....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Karandeep S. Sidhu, Advocate for petitioner.
Mr. Shubham Kaushik, AAG Punjab.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioner before this Court seeks his release as an undertrial in a case bearing FIR No.232 dated 02.09.2022, registered under Sections 458, 326, 506, 148 read with Section 149 of the Indian Penal Code, 1860 (for short 'IPC') (Section 307 of IPC added later on, at Police Station, City Malout, District Sri Muktsar Sahib.

2. Per the prosecution's version, on September 2, 2022, at approximately 7:30 PM, Rohit Kumar (the petitioner) armed with a knife, Manav Kumar armed with a Kirpan, Karan Kumar armed with a knife, Chahat Kumar armed with a Kirpan, Akshay Kumar armed with a baseball bat, and two unidentified persons armed with Dangs, along with Bonny Kumar and Nimmo Rani (who were both empty-handed), came to meet Sumit Kumar (the complainant) and Rajan Kumar. A heated altercation took place, and the petitioner inflicted a knife wound to the stomach of Rajan Kumar. Manav Kumar struck Rajan Kumar with a sword on the chest, while Karan Kumar also delivered a knife blow to Rajan Kumar on the left side of his chest. Chahat Kumar administered a sword blow to the left bicep, and Akshay Kumar delivered a baseball bat strike to the left shoulder of Rajan Kumar. One of the unidentified persons delivered a Dang blow that struck his right wrist. Subsequently, Rajan Kumar fell to the ground and cried out, "Marta Marta," which attracted the attention of onlookers. Following this, all the aforementioned individuals, each with their respective weapons, fled from the scene. Later, when the doctor declared injuries No. 1, 2, and 4 as life-

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threatening according to the Medico-Legal Report, an offense under Section 307 IPC was added via Rapat No. 71 dated September 7, 2021. During the investigation, the petitioner was arrested and has been in custody since October 31, 2022.

3. Learned counsel for petitioner submits that after the opinion of doctor, offence under Section 307 IPC was added. He submits that as per opinion (Annexure P-4) of the doctor, it is nowhere stated that injured person could have died if not taken to the hospital timely or given medical care. Further states that in any case, investigation is complete and allegation attributed to the petitioner will be adjudicated in course of trial which is yet to commence.

3.2. Learned counsel further contends that co-accused of the petitioner, namely Karan Kumar, Chahat Kumar and Manav Singh @ Manav Kumar have already been granted the concession of bail by this Court vide separate orders dated 16.08.2023, passed in CRM-M-4322-2023, CRM-M-37745-2023 and CRM-M-11230-2023 (Annexure P-5 colly), respectively, but petitioner continues to languish in the jail.

4. On the other hand, learned State counsel opposes the petition. He submits that petitioner along with other co-accused have committed a serious offence. He further submits that as per medical opinion, injuries No.1, 2 and 4 are dangerous to life. If released on bail, there is likelihood of petitioner fleeing from trial proceedings and/ or tampering with evidence and influencing witnesses.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. On a Court query, learned State counsel, on instructions from ASI Satwant Singh, submits that challan has been presented and charges were framed on 09.11.2022. Out of total 20 witnesses, only 01 has been examined so far. Investigation *qua* petitioner is complete, he is thus not required for custodial interrogation. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Allegations against petitioner are a matter of trial at this stage. Conclusion of trial is still likely to take long time as it is proceeding at a snail pace. Whereas, petitioner has already been languishing in jail for the past more than 10 months in preventive custody, being behind bars since 31.10.2022.

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7. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/or influence witnesses. There is no probability of tampering with evidence as the same has already been seized by the investigating agency.
8. It is stated that petitioner is 21-year old young boy having one unmarried sister and has added responsibilities of old age parents to look after them. Petitioner is stated to be an undergraduate student at DAV College, Malout. He is in the cross-road of his career and his continued incarceration will permanently ruin his chances to earn livelihood and he may be rendered jobless forever. Having fixed abode and clean antecedents, it is unlikely that petitioner poses any flight risk and/or will flee from trial proceedings.
9. Co-accused of petitioner have already been granted the concession of bail.
10. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.
11. Accordingly, petitioner is ordered to be released on bail, in case not required in any other case, 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.
12. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.
13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

September 12, 2023
mahavir

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