

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No. 49751 of 2023
Reserved on :- 03.11.2023
Pronounced on: 06.11.2023

ATUL SHARMA

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Japjit Singh Johal, Advocate for the petitioner.
Mr. Subhash Godara, Addl. A.G., Punjab.

.....
SANJIV BERRY, J.

The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in the following case (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
115	16.06.2023	323, 324, 326, 307, 506, 148, 149 IPC (201 IPC added lateron)	Mukerian, District, Hoshiarpur

2. In nutshell, the case put forth by the prosecution is that on 11.06.2023 at around 6:20 pm Parveen Kumar-complainant was returning to his home after getting milk, when he reached opposite to the village Government School, he saw Amandeep Singh armed with Datar, Dhanna armed with Kirpan, Ricky Thakur armed with Rod along with three other unknown persons abusing one Jaspal Singh, who were stopped from doing so, by the complainant, therefore, with the intention to kill, above said assailants attacked the complainant and injured him. On shouting, they ran

away from the spot with their weapons. Complainant was admitted in Amandeep Hospital, Amritsar and on complaint, FIR was registered.

3. It is *inter alia* contended by the learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He submits that the petitioner was not named in the FIR, but was only nominated on the disclosure statement of co-accused Gurwinder Singh and the same is not admissible in the eyes of law. He further submits that the occurrence as per the FIR took place in Adbullapur, Mukerian Hoshiarpur and the medical of the injured was done at a private hospital i.e. Amandeep Hospital, Amritsar which is about 100 kms away from the place of occurrence which raises question as to why the injured not opted to go to any government hospital or clinic in the vicinity of the occurrence. The police officials visited the hospital on 13.06.2023 and 15.06.2023 and on informing by the hospital that the injured was discharged from the hospital, police approached the injured at his village on 16.06.2023 and the FIR was lodged which is after delay of 5 days which clearly shows consultation, deliberation, and manipulation. No injury has been attributed by the present petitioner, and Challan has already presented in the Court and trial will take a sufficiently long time and no purpose would be served by keeping the petitioner behind bars and as such prayed for grant of concession of bail.

4. *Per contra* learned State counsel on the other hand opposed the bail application by submitting that the petitioner was nominated on the disclosure statement of co-accused Gurwinder Singh and was arrested on 24.07.2023. Petitioner gave kick blow to the complainant while he was lying on the ground which hit his back, chest and other parts of the body. It is

admitted that injured was admitted in Amandeep Hospital, Amritsar Challan has been presented in the Court on 02.09.2023 and the case is pending for framing of charges.

5. After considering the rival contentions and perusing the record, it transpires that the petitioner was not named in the FIR but only nominated on the disclosure statement made by the co-accused Gurwinder Singh. Even as per the case of the prosecution no specific injury has been attributed to the petitioner except alleged kick blows to the complainant. Petitioner was arrested on 24.07.2023 and since then he is behind bars. Challan has been presented in Court and conclusion of trial would take sufficiently long time; and criminal liability, if any, would be ascertained after conclusion of trial, therefore, no purpose would be served by detaining the petitioner in custody any longer.

6. Resultantly, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail, subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

7. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

06.11.2023

Gyan

- i) Whether speaking/reasoned?
- ii) Whether reportable?

Yes/No
Yes/No