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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-50531-2023 (O&M)

Date of decision:11.10.2023

Ankush @ Gandhi

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:** Mr. Shvetanshu Goel, Advocate, for petitioner.

Mr. Mohit Thakur, AAG, Punjab.

ARUN MONGA, J. (ORAL)

Aggrieved by being denied bail by the learned trial court, the petitioner before this Court seeks his release as an undertrial in a case bearing FIR No.29 dated 09.03.2023, registered under Sections 324, 148, 149, 506 and 307 of the IPC at Police Station, Shimlapuri, Ludhiana.

2. The FIR was registered on the complaint of Jaspreet Singh, who alleged that on 21.02.2023, he was coming back from his work. When he reached behind Harikrishan School, Daba Road, his friend Ankit was already present there. The complainant and his friend, Ankit, were talking when Ankush, also known as Gandhi (the present petitioner), Ashu, and Vishal, along with 5-6 unknown persons, arrived with deadly weapons. Ankit, the complainant's friend, fled the scene. The petitioner, Ankush alias Gandhi, was holding a sword, while Ashu and Vishal had dattars, and their companions were armed with hockey and baseball bats. At Ashu's urging, the petitioner, Ankush alias Gandhi, struck a blow with the sword at the back of the complainant's head with the intent to kill him. Ashu delivered a dattar blow to the complainant's right leg and a second blow to his left leg. Vishal also struck a dattar blow that hit the complainant's thumb, causing him to fall to the ground. The complainant sustained severe injuries and was initially taken to Civil Hospital Ludhiana. Later, he was referred to PGI, Chandigarh, but was sent back from there in the evening. Subsequently, the complainant received treatment at Deep Hospital, Ludhiana, and was discharged on 27.02.2023. An FIR was registered on 09.03.2023, and the petitioner has been in custody since then.

3. Learned counsel for the petitioner argues that the altercation stemmed from a private dispute between the parties and that, at the time of the FIR, the complainant claimed to have suffered a grievous injury, but it was later found to be of a simpler nature. The matter has now been settled between the parties, with a compromise dated 15.05.2023 attached as Annexure P-4. The complainant no longer wishes to press charges against the petitioner.

3.1 He further submits that a co-accused of the petitioner, namely Vishal, has already been granted anticipatory bail by this Court through an order dated 06.09.2023.

3.2 He further argues that the petitioner is not needed for further custodial interrogation and that there is no likelihood of the petitioner tampering with evidence or influencing prosecution witnesses.

4. On the other hand, the learned State counsel opposes the bail petition. He submits that the petitioner has committed a serious offence. In case the petitioner is granted bail, there are chances of his fleeing from trial proceedings. He does, however, admit that no other case is pending against him.

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

6. On a court query, learned State counsel informs that challan was filed on 15.09.2023. The investigation concerning the petitioner is complete; thus, he is not required for custodial interrogation.

7. Allegations against the petitioner are a matter of trial at this stage. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Commencement/conclusion of the trial is still likely to take a long time. Whereas, the petitioner has already been languishing in jail for more than 7 months, being behind bars since 09.03.2023.

8. Investigation concerning the petitioner is over, but he 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.

9. The petitioner is a 22-year-old young man at a critical juncture in his career. Prolonged incarceration may jeopardize his career prospects and leave him jobless. With a family to support, a fixed abode, and a clean record, it is unlikely that he poses a flight risk or will flee from trial proceedings.
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 on his furnishing bail bonds and surety bonds to the satisfaction of Ld. 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. In case, petitioner is found involved or get 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 of the cases 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

11.10.2023
vandana

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