

227 **IN THE HIGH COURT OF PUNJAB AND HARYANA**
AT CHANDIGARH

CRM-M-51629-2023 (O&M)

Date of Decision: 28.11.2023

Sandeep @ Dev

...Petitioner

vs.

State of Haryana

...Respondent

Coram : **Hon'ble Mr. Justice N.S.Shekhawat**

Present : Mr. Ashit Malik, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.170 dated 21.05.2023 (wrongly mentioned as 20.05.2023 in impugned order dated 21.09.2023), registered under Sections 148, 149, 307, 323, 325, 379-B and 506 of IPC, 1860, at Police Station Civil Lines, Kaithal, District Kaithal.

2. The FIR in the present case was registered on the complaint moved by Rahul. As per the complainant, on 19.05.2023, his neighbours entered their house and had beaten up their family. A compromise was effected between both the parties with the condition that nobody would play cricket near their house. Despite this, Dev's son along with other children were playing cricket near their house and his maternal uncle went there to make video of the children playing the cricket. Dev and his cousin, 4/5 girls and Vashu son of Dev had attacked Krishan Dhull, maternal uncle of the complainant to stop him for

making their video. The complainant also went there to save his maternal uncle. Dev and his cousin attacked them. Dev caused an injury with a *karra* on the head of the complainant and Dev's mother and cousin gave repeated brick blows. The complainant was shifted to General Hospital, Kaithal and was further referred to Cygnus Hospital, Kaithal. With these main allegations, the FIR in the present case was got registered by the complainant.

3. Learned counsel for the petitioner contends that as per the role assigned to him in the present FIR, the petitioner had allegedly caused gave a blow with a *Karra* on the head of the complainant. He further contends that Rahul, complainant had suffered one injury on his head and he was discharged on 29.05.2023. Learned counsel next contends that the petitioner, his mother Kamlesh and Dayanand, his uncle had also suffered injuries and were medico legally examined on 20.05.2023. While referring to the MLRs of petitioner, Kamlesh and Dayananad (Annexures P-1 to P-3), learned counsel submits that even a cross-version was recorded by the police, but no action was taken on the same. Learned counsel next contends that no offence under Section 307 and 379-B of IPC was made out against the petitioner and others, as no mobile phone was snatched or stolen by the petitioner or any other accused. He further contends that the petitioner was arrested in the present case on 14.06.2023 and is in custody for the last more than five months. The trial Court has ordered framing of charges against the petitioner and conclusion of the trial may taken quite a long time.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that there

are serious allegations against the present petitioner. She further submits that the petitioner has been specifically named in the present FIR and the injury, which attracted the offence under Section 307 IPC, is attributed to the present petitioner. She further contends that 8 more criminal cases have been registered against the petitioner. However, she admits that one case was registered against the petitioner under section 323 IPC and in all other 7 cases, the allegations have been levelled against the present petitioner regarding cheating of innocent persons by him. She further admits that the petitioner is on bail in all these cases.

5. I have heard the learned counsel for the parties and perused the record.

6. The petitioner is continuing in custody for the last more than 5 months. The petitioner is attributed an injury with a *Karra* on the head of Rahul, complainant. However, Rahul has already been discharged on 29.05.2023. Only charge has been framed against the petitioner and no witness has been examined so far.

7. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned, subject to the following conditions:-

(i) *The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.*

- (ii) *The petitioner shall remain present before the Court on the dates fixed for hearing of the case.*
- (iii) *The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.*
- (iv) *The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*
- (v) *The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.*
- (vi) *In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a petition for cancellation of bail granted to him.*
- (vii) *The concerned Court may insist on two heavy local surties and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioner.*
- (viii) *The petitioner shall report every 1st Monday of English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the rojnamcha. In case, he does not report on every 1st Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Haryana shall be at liberty to move an appropriate application in this regard.*

8. Pending application, if any, is also disposed of.

28.11.2023

hemlata

(N.S.SHEKHAWAT)
JUDGE

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