

227

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No.52485 of 2023(O&M)
Decided on :- 19.12.2023

SUKHWINDER SINGH

... Petitioner

Versus

STATE OF HARYANA

... Respondent

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

Present:- Mr.Ivneet Singh Pabla, Advocate for
for the petitioner.

Mr. Surender Singh, AAG, Haryana.

Mr. D.V. Dhindsa, Advocate for the complainant

SANJIV BERRY, J. (ORAL)

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
45	27.01.2023	308, 323, 325, 506, 452, 148, 149 IPC, (Section 148, 149,452 deleted lateron)	Naraingarh, District Ambala

2. In *nutshell* the instant case was registered on the statement of
complainant that on 17.12.2022, while he was present along with his family
in his house then the petitioner along with other co-accused entered the
house armed with weapon and beaten him and his family members. His

mother was shifted to hospital for medical treatment and the FIR was registered.

3. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He submits that the petitioner had not caused any injury and only attribution to him is that he gave push to the injured, however no weapon is stated to be used by the petitioner as per reply submitted by the State. He further submits that as per the case of the prosecution injury had been on the head of the mother of the complainant, whereas the Medico Legal case summary (Annexure P-3) reveals that the patient got admitted on 17.12.2022 with injuries "pain in right forearm" and later on, she absconded, this fact itself creates doubt regarding version given by the prosecution. He further contends that no specific overt act has been attributed to the petitioner and the challan has already been presented and as such he prays for grant of concession of bail.

4. Learned State counsel filed custody certificate dated 18.12.2023, the same is taken on record. Learned State counsel has not disputed the factual position and has referred to the reply filed by the State to say that the allegations against the petitioner are that he pushed the injured, as a result, she received grievous injuries, however no weapon was used and no recovery is to be effected from him.

5. Learned counsel appearing on behalf of the complainant opposed the bail petition by arguing that the petitioner committed heinous crime and hence he does not deserve concession of bail.

6. After considering the rival contentions and perusing the record,

it transpires that the injury suffered by Darshani Devi attracting the provisions of Section 308 IPC is stated to be on the head, however the Medico Legal Report (Annexure P-3) which is part of challan says that the patient was admitted on the same day with pain in the right forearm and later the injured absconded from the hospital. Admittedly as per the reply submitted by the State, no weapon had been used or recovered from the petitioner. The challan has already been presented in Court and the petitioner is in custody since 14.07.2023. The criminal liability of the petitioner at this stage is debatable and could only be ascertained after conclusion of trial, which may take sufficient long time and no purpose would be served by detaining the petitioner in custody any longer.

7. Consequently, without commenting on the merits of the case, it is observed that no purpose would be served in keeping petitioner behind bars. Therefore, 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.

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

9. Pending application(s) if any shall also stand disposed of.

(SANJIV BERRY)
JUDGE

19.12.2023

Gyan

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

Yes/No
Yes/No