

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : CRM-M-55531-2022

Date of Decision : April 11, 2023

Gulshan Kumar

.... Petitioner

vs.

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Vinay Puri, Advocate
for the petitioner.

Ms. Himani Arora, AAG, Punjab.

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GURBIR SINGH, J. :

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in a cross-case bearing GDR/Rapat No.32 dated 19.11.2021, under Sections 323/324/447/511/506/427/148/149 IPC (Annexure P-2) in case FIR No.239 dated 18.11.2021, under Sections 323/324/451/447/511/506/427/148/149 IPC (Sections 420/468/471/201/120-B IPC added later on) (Annexure P-1), registered at Police Station Sahnewal, District Ludhiana.

The cross-case was registered on the basis of statement made by Rajdeep Bhatia that they were having one property in Shiv Enclave, Dharaour Road, Nandpur. He was owner and occupier of the said property. On 15.11.2021, he went to said colony and saw that the petitioner along with his accomplices were taking forcible possession of the property owned by the complainant, by digging foundations. When he tried to stop them,

the petitioner gave injuries at him with *danda*. On 30.11.2021, Narinder Singh – complainant of the afore-said FIR and co-accused of the petitioner in the cross-case, gave supplementary statement and also produced a report of Rajindra Hospital, Patiala with regard to injury no.2 suffered by Narinder Singh. On the basis of said report, offence under Section 326 IPC was added in the FIR. On 18.03.2022, accused in the main case Rajdeep Bhatia gave representation to the Commissioner of Police, Ludhiana. During preliminary investigation, it was found that Narinder Singh – complainant of the main case, in connivance with the petitioner and other co-accused nominated in the cross-case, had fabricated the afore-mentioned report issued by Rajindra Hospital, Patiala. So, offence in the cross-case was enhanced.

Learned counsel for the petitioner submits that the cross-case is counter-blast to the main FIR. The cross-case is the classic example where the law is being misused as a camouflage to achieve ulterior motives.

Learned counsel for the petitioner further contends that a bare reading of the cross-case shows that the same is result of well-hatched story. The cross-version is divided into two parts. In the first part, the petitioner is shown to have kirpan in his hand and the role attributed to the petitioner is of raising lalkara. In the second part, the petitioner is shown to have spade in his hand and the injury attributed to the petitioner is on the left arm of Gagandeep Singh. The merits of version and cross-version and which party was the aggressor may be decided during trial. The other party has tried to take possession of the property of the petitioner forcibly. The petitioner, in order to protect his rights, had already filed a Civil Suit, wherein Rajdeep

Bhatia was arrayed as a party, who became annoyed and started threatening the petitioner. He further apprised the Court that the challan in this case has already been presented and the petitioner is in custody since 18.06.2022. The trial of the case may take a long time to conclude. Therefore, the petitioner be released on bail.

On the other hand, learned State counsel, while opposing the prayer made by learned counsel for the petitioner, has submitted that three other cases are also pending against the petitioner. However, she has fairly conceded that the petitioner is in custody in this case since 18.06.2022.

To counter the aforesaid contention, learned counsel for the petitioner has submitted that it is duly mentioned in the petition itself that three other cases are pending against the petitioner but pendency of other cases be not considered as a ground to deny the concession of bail to the petitioner.

Heard.

The petitioner is in custody since 18.06.2022 in this case. The merits of the case are not to be seen at this stage and since it is a case of version and cross-version, it would be decided during trial as to which party was the aggressor. Challan in the cross-case has already been presented. The completion of trial may also take a long time. The co-accused of the petitioner namely Narinder Singh @ Giani has already been released on bail by this Court vide order dated 05.01.2023 passed in **CRM-M-40439-2022**.

Without discussing the merits of the case, but keeping in view all the facts detailed above, this Court is of the view that no useful purpose would be served by keeping the petitioner behind bars for a long period.

Accordingly, the present petition is allowed and the petitioner is directed to be released on regular bail, on his furnishing bail bonds/surety bonds, to the satisfaction of learned Trial Court/Duty Magistrate concerned.

If any attempt whatsoever is made by the petitioner to contact/threaten/intimidate any member of the complainant's family, the complainant/State shall be at liberty to move an application for cancellation of bail granted vide this order.

However, nothing contained herein above shall be construed as an expression of opinion on the merits of the case.

April 11, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.