

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

CRM-M-54185-2023
Date of Decision:-**14.11.2023**

VIPIN KASHYAP @ VIPEN

... Petitioner(s)

Versus

STATE OF HARYANA

... Respondent(s)

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. Yavneet Dhakla, Advocate
for the appellant(s).

Mr. Neeraj Sheoran, DAG, Haryana.

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KARAMJIT SINGH, J. (Oral)

1. This is the second petition filed by the petitioner for grant of regular bail in a case having FIR No.120 dated 18.03.2022 registered under Sections 148, 149, 323, 506, 307 IPC and Section 25 of Arms Act, at Police Station 14, Panchkula.
2. The case of the prosecution in nut shell is that on 18.3.2022, it was Holi festival and at about 2:30 pm, the accused persons forcibly entered the compound of complainant-Karan Kumar and started manhandling him, on which the complainant raised alarm, which attracted Varinder, who reached the spot and tried to intervene.

However, the present petitioner gave a knife blow in abdomen of Varinder while the other accused caught hold of Varinder and gave him kick and fist blows. The petitioner was arrested in this case on 20.3.2022 and weapons used in commission of crime was recovered at his instance.

3. The counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case and is not identified by injured Varinder during the trial and even complainant Karan while appearing in the witness box as PW-2 clarified in his cross examination that he failed to identify the person who caused injury to Varinder at the time of occurrence as the face of the assailant was covered with colour, it being a Holi festival on that day. The counsel for the petitioner further submits that even otherwise the petitioner is in custody for the last 1 year and 7 months and it will take considerable time for trial to conclude as till date only 6 witnesses out of total 20 witnesses have been examined on behalf of the prosecution and the petitioner is not having any criminal history; and it is prayed that the petitioner be granted concession of regular bail.
4. The instant petition is opposed by the State counsel, who *inter alia* submits that petitioner is the main accused, who caused injury in the abdomen of Varinder with the help of knife and the said injury was found to be dangerous to life. However, the State counsel on instructions from ASI Sukhjant Singh has not disputed that the petitioner is incarcerated for the last 1 year and 7 months and that till date only 6 witnesses out of total 20 witnesses have been examined on

behalf of the prosecution and further injured Varinder while appearing in the witness-box failed to identify the culprit, who caused knife injury at the time of occurrence and that all the material witnesses are examined.

- 5. I have considered the submissions made by counsel for the parties.
- 6. Admittedly the petitioner is in custody for the last more than 1 year and 7 months and is having no criminal history. It appears that during trial injured Varinder failed to identify the petitioner. All the material witnesses are already examined during trial, so there is no apprehension that if released on bail, the petitioner is going to influence the complainant and injured. Further it will take considerable time for the trial to conclude as till date only 6 witnesses have examined on behalf of the prosecution out of total 20 witnesses. This Court is of the view that in the given circumstances, no fruitful purpose is going to be served by prolonging judicial custody of the petitioner for indefinite period.
- 7. Thus, without commenting on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

14.11.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

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