

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

247

2023:PHHC:159047

CRM-M-56427-2023

Date of decision: December 12th, 2023

Dharam Pal

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Lekh Raj Sharma and Mr. Vivek Kumar, Advocates
for the petitioner.

Ms. Jasleen Chahal, Assistant Advocate General, Haryana.

Mr. Ullas Kapoor, Advocate
for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.168 dated 18.06.2023 under Sections 148, 149, 323 and 506 of the IPC (Section 307 IPC added later on) registered at Police Station B.P.T.P., District Faridabad.

2. Learned counsel for the petitioner, *inter alia*, contends that even as per the allegations levelled in the FIR, which has been annexed as Annexure P-1, there was a quarrel between the children of the neighbours; the petitioner along with others was shown to be present at the place of occurrence with *lathi*, knife, *farsha* etc., however, it was co-accused Saurabh and Gulli, who allegedly threw bricks from the roof of the house, which hit the head of injured Zavitri, as a result of which her head burst and she sustained injury which was opined to be dangerous to life. Learned counsel submits that there is no specific role

or injury attributed to the petitioner in the FIR in question much less the injury which was declared dangerous to life. He submits that petitioner is a 71 years old man, who was arrested on 15.07.2023 and after the challan was presented and charges framed on 25.09.2023, none of the nine prosecution witnesses had been examined so far, hence, in the circumstances, his further incarceration would serve no useful purpose as the trial would take considerable time to conclude.

3. *Per contra*, learned State counsel assisted by learned counsel for the complainant has vehemently opposed the prayer and submissions made by the counsel opposite. It has been submitted that the petitioner was named in the FIR in question and it had also been alleged that he along with other co-accused were armed with *lathi*, *farsha* etc. at the time of the alleged occurrence and furthermore, attacked the complainant party. However, it has not been disputed by the learned State counsel as well as the counsel appearing for the complainant that it was co-accused Saurabh and Gulli, who had been attributed a specific role that while standing on the roof, they had pelted bricks towards the injured, as a result of which her head burst and she suffered an injury which was declared dangerous to life. Learned State counsel has further submitted that the next date fixed before the trial Court is 18.12.2023, when prosecution evidence is likely to commence.

4. On a pointed query put to the learned State counsel qua the criminal antecedents of the petitioner, she on instructions, has informed the Court that he has clean antecedents and is not involved in any other criminal case.

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

6. The petitioner, who is a 71 year old man, has been in custody since 15.07.2023. In the facts and circumstances as enumerated hereinabove, particularly in the wake of the injury, which was declared dangerous to life, not having been specifically attributed to the petitioner but to co-accused Saurabh and Gulli, this Court deems it fit to enlarge him on bail as there is no likelihood of the trial concluding in the near future.

7. The instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

December 12th, 2023
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No