

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

207 CRM-M-63670-2023
Date of decision: 22.12.2023

Gautam Kumar ... Petitioner

Vs.
State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present :- Mr. Jashandeep Singh Sandhu, Advocate for the petitioner.
Mr. A.P.S. Tung, DAG, Punjab.

SUVIR SEHGAL J. (ORAL)

This second petition has been filed under Section 439
Cr.P.C. seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
206	24.08.2019	Sadar, Fazilka	302, 148, 149 IPC

2. Case of the prosecution is that FIR, Annexure P1, has been registered on the statement of Kuldeep Kumar on the allegation that on 23.08.2019 when the complainant and his brother Sandeep Kumar were coming to City, Fazilka on their motorcycle, they spotted Gautam (present petitioner), Rakesh Kumar and Manpreet Singh, along with 8-10 young boys, who were armed with wooden sticks, assaulting Lekh Raj. On spotting them, Gautam instigated the co-accused and all three of them

attacked Sandeep Kumar and Rakesh Kumar stabbed him in the stomach. On an alarm raised by the complainant, the accused fled from the spot. Sandeep Kumar was shifted to the hospital where he succumbed to his injuries.

3. Counsel for the petitioner submits that after the withdrawal of the first petition by the petitioner in January, 2023, the Investigating Officer as well as a doctor have been examined. By referring to the cross-examination of the Investigating Officer, counsel has pointed out various lacunas in the investigation. Counsel submits that although petitioner is alleged to be a member of the unlawful assembly and it has been claimed that he exhorted the co-accused and assaulted the deceased, but as per the postmortem report, the deceased suffered one injury, which proved to be fatal and it has been attributed to the co-accused, Rakesh Kumar, who is in detention. He submits that as the complainant and other material prosecution witnesses have been examined, petitioner, who is a young man of 22 years of age deserves to be enlarged on bail as he is in custody since 31.08.2019.

4. Per contra, State counsel on instructions from ASI Gurmej Singh has opposed the petition. He submits that as a result of the attack by the petitioner and the co-accused, an innocent bystander has been done to death. He submits that Sandeep was attacked without any provocation and a wooden stick has been effected from the petitioner. As per his instructions, out of 30 prosecution witnesses, some have been examined.

5. I have heard counsel for the parties and considered their respective submissions.
6. Petitioner is a young man, who has been in detention for the last more than 51 months. Despite the fact that charge was framed more than two years earlier, trial is not likely to conclude in the near future. Noticing the role ascribed to the petitioner, stage of trial, length of custody and unblemished antecedents of the petitioner, this Court has no hesitation in acceding to the prayer made in the petition.
7. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned.
8. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

22.12.2023
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No