

**CRM-M-8643 of 2024****1****IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH****CRM-M-8643 of 2024****Date of decision : July 09, 2024**

Pawan Kumar

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Hitesh Chopra, Advocate, for the petitioner
Mr. Sahil R. Bakshi, AAG, Punjab

KULDEEP TIWARI,J. (ORAL)

1. The petitioner, who is, an under trial in case FIR No. 120 dated 13.7.2018, registered under Sections 302, 201, 34, 120-B IPC, at Police Station Sadar Jalandhar, District Commissionerate Jalandhar, has filed the instant petition under Section 439 Cr.P.C., seeking regular bail in another case FIR No. 03 dated 03.01.2023, under Sections 120-B,324, 326, 148, 149 IPC, and under Sections 46 and 52-A of Prisons Act, registered at Police Station City Gurdaspur, District Gurdaspur.

2. The allegations against the petitioner are that he being under trial along with four other persons, caused injuries to one Sewak Singh complainant, who is serving life imprisonment, and lodged at Central Jail, Gurdaspur. Complaint was made on the statement suffered by the above

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injured Sewak Singh, that the present petitioner along with other co-accused, on dated 31.12.2022, attacked the complainant, due to some dispute, which arose regarding the use of the public telephone installed in the jail premises.

3. Learned counsel for the petitioner submits that as per the FIR, the present petitioner is attributed with inflicting Bodkin (*sua*) blow on the left side of the chest of the complainant, and in order to save himself, the complainant put his left hand forward, and the blow hit on his hand. He further submits that the injury which is attributed to the present petitioner has been declared as simple in nature. He also submits that the petitioner has been granted bail in case FIR No. 120 (*supra*), in which he was lodged in the jail, as an under trial, by the Coordinate Bench vide order dated 29.1.2024. He also submits that the petitioner has undergone sufficient incarceration, as he is behind the bars, in the instant FIR since 14.6.2023.

4. Per contra, learned State counsel, while opposing the grant of regular bail to the petitioner submits that the petitioner being under trial, has caused serious injury to the complainant by Bodkin (*sua*), therefore, he does not deserve the leniency of regular bail. He also informs this Court on instructions from the official concerned that final report in this case has been filed way back on dated 11.9.2023, and the charges have been framed on dated 27.9.2023. He in addition submits that only one prosecution witness stands examined, out of total 18 witnesses, as cited by the

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prosecution. The FIR reads as under:-

“Statement of Sewak Singh son of Gurjeet Singh, resident of Joda Chhitra, Police Station Sadar Gurdaspur, presently Central Jail, Gurdaspur, age about 28 years, 7340868773. Stated that I am resident of aforesaid address and consequent upon having been convicted in case FIR No. 121 dated 03.11.2018 under sections 302, 34 IPC, Police Station Sadar Gurdaspur, undergoing life sentence in Central Jail, Gurdaspur and my cousin brother Amrinder Singh son of Kirpal Singh is also undergoing sentence along with me and myself and my cousin brother have been kept in one and the same barrack. Common STD has been installed for the convicts of barracks no. 1 and 5 from where only convicts of barrack no. 1 and 5 are only permissible to make phone calls and separate STDs have been installed for the others. About 10 days ago, Undertrials, namely, Gurwinder Singh son of Major Singh and Gursewak Singh son of Jaswant Singh were confined in 'chakki', these inmates were allowed to make phone call from STD of barrack no. 8 but, the aforesaid inmates had come to make phone call from STD of Barrack no. 1 forcibly and my cousin brother Amrinder Singh was deputed on the STD and I was also present on the STD. My cousin brother asked Gurwinder Singh and Gursewak Singh that you are allowed to make phone call from this STD and they started altercation with us and left from there. On dated 31.12.2022 at about 03:30 PM, I was present on the vegetables canteen in order to fetch vegetable and convict Harpreet Singh son of Jagir; inmate Tej Pal Singh son of Surjit Singh; inmate Pawan Kumar son of Balbir Singh, who are the friends of Gursewak Singh and Gurwinder Singh and on their instigation, who were wielding bodkin and 'karda' came towards me and Gurwinder raised proclamation from some distance to catch hold of him and teach him a lesson for not allowing us to make phone call from the STD and then Harpreet Singh inflicted bodkin blow being wielding by him in his name on right side of

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below my abdomen and Tej Pal inflicted karad blow on left side of my chest and then Pawan Kumar inflicted bodkin blow on left side of my chest and in order to save myself, I, put my left hand forward and blow hit my hand. Harpreet inflicted his bodkin blow on right side of my chest, due to which I fell down on the ground and the aforesaid persons inflicted injuries with the bodkin and karda being wielded by them to me while ying down and on hearing my cries, my cousin brothers Amrinder Singh and Onkar Singh accompanied by one Simrat Singh attracted on the spot and on seeing them, accused persons along with their respective weapons, left for their respective barracks. This occurrence was eye witnessed by my cousin brothers and one Simrat. Cause for the grievance is that the aforesaid persons were not allowed to make phone call from the STD because of which the aforesaid persons have caused injuries to me. Then, Jail Guard got me hospitalized in Civil Hospital, Gurdaspur for treatment where doctor provided me first aid and issued MLR and because of grievousness of my injuries, I was referred to Guru Nanak Hospital, Amritsar, where I am undergoing treatment. Action against the aforesaid persons may be initiated.”

5. The allegations as culled out from the FIR (*supra*), against the petitioner are that he has given a Bodkin (*sua*) blow which ultimately landed on the left hand of the complainant. It is not under dispute that the injury which is attributed to the present petitioner has been declared as simple in nature. The petitioner has suffered sufficient incarceration, and the offences under which the petitioner is facing the trial, is triable by the learned Judicial Magistrate Ist Class. The trial is at a initial stage as only one witness has been examined, out of total 18 witnesses, as cited by the prosecution.



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6. In view of the facts and circumstances recorded above, this Court deems it fit and appropriate to extend the benefit of regular bail to the petitioner. Therefore, the present petition is **allowed**.

7. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

8. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

July 09, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned ? Yes/No
Whether Reportable ? Yes/No