

CRM-M-11014-2024

220 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-11014-2024 (O&M)

Date of Decision: 06.03.2024

RAKESH KUMAR @ AMIT

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Kuldeep Singh Siwach, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

HARPREET SINGH BRAR J. (Oral)

1. This is the first petition filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in the case bearing FIR No. 191 dated 19.05.2023 registered under Sections 323, 324, 452, 506 and 34 of Indian Penal Code (Sections 326 and 307 of IPC added later on) at Police Station Bhuna, District Fatehabad.

2. The prosecution story in brief is that on 18.05 2023 at about 09.30 PM., when the complainant – Geeta wife of Manoj Kumar was in her parental house, then her husband/co-accused Manoj Kumar son of Jai Parkash, resident of village Madhoana along with one unknown boy, to whom she does not know, came on a separate motor-cycle, whereas co-accused Amit (son of maternal uncle of co-accused Manoj) along with one another unknown boy, to whom she does not know, was on another separate motor-cycle, came to her in her parental house and started beating her, her elder sister Kanta and mother Santosh. Co-accused Manoj caused injuries to her, her elder sister Kanta and mother Santosh with iron-pipe and ice-pick

(Sua), while other persons also caused injuries to them (complainant party)

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with iron-rod and iron-pipe. On hearing noise, her cousin Ram Niwas son of Ranjeet, resident of village Dhani Gopal rushed to the spot and on seeing him, all the assailants fled away from the spot along with their weapons, while raising threat to kill them, in future. The complainant further alleged that assailants left their motor-cycles bearing registration No. HR-23G/0721 make Delux; and bearing registration No. HR- 22H/2216 make Platina at the spot itself. Complainant further alleged that motive behind this assault was that her husband is a drunkard and thus she has come to her parental house and she does not want to live with her husband in her matrimonial house, due to which her husband/co-accused Manoj Kumar along with co-accused Amit and 02 (two) other unknown boys, caused injuries to them, without any reason. Complainant requested to take legal action against assailants. Complainant further alleged that her cousin Rohtash son of Wazir Singh, resident of village Dhani Gopal got them admitted in CHC, Bhuna, from where they were referred to MAMC Agroha.

3. Learned counsel for the petitioner *inter alia* contends that the injury attracting Sections 326 & 307 of IPC has been specifically attributed to co-accused-Manoj and the present dispute is the outcome of the matrimonial dispute between Manoj and his wife, namely, Geeta who is the complainant. The petitioner is behind the bars since 28.08.2023 and similarly situated co-accused, namely Surender @ Sunder was granted concession of regular bail by this Court vide order dated 15.02.2024 (Annexure P-2) passed in CRM-M-6908-2024.

4. Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the ground that the role of the petitioner has been established who has actively participated in the alleged occurrence and one

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iron pipe used as weapon in the alleged occurrence has been recovered from him on the basis of disclosure statement made by him. He further submits that the petitioner is involved in one more case, and thus, does not deserve the concession of regular bail.

5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 28.08.2023 and similarly situated co-accused, namely Surender @ Sunder have been granted concession of regular bail by this Court vide order dated 15.02.2024 (Annexure P-2) passed in CRM-M-6908-2024 and the investigating agency has already concluded the investigation and filed the final report under Section 173 Cr.P.C. on 28.12.2023. There are 19 PWs and the trial is yet to commence. So further incarceration of the petitioner without there being the prospect of the conclusion of the trial in the near future, would be violative of Article 21 of the Constitution of India. Culpability, if any, would be determined at the time of trial.

6. Keeping in view the law laid down by Hon'ble Supreme Court of India in '**Prabhakar Tewari Vs. State of U.P. and Another**', 2020 (1) **R.C.R. (Criminal) 831** and **Maulana Mohd. Amir Rashadi vs. State of U.P. and others**, 2012(2) **SCC 382**, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

7. In view of the above, the present petition is allowed. Without commenting on the merits of the case lest it may prejudice the outcome of the trial, petitioner-Rakesh Kumar @ Amit is ordered to be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty

Magistrate.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

06.03.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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